

In The Matter Of:

*EDWARD CARTER v.
INCORPORATED VILLAGE OF OCEAN BEACH*

*FRANK FIORILLO
February 20, 2009*

*Precise Court Reporting
200 Old Country Road
Suite 110
Mineola, NY 11501
(516) 747-9393*

*Original File 51060.TXT, 475 Pages
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Word Index included with this Min-U-Script®

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[1]
[2] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
[3] _____X
EDWARD CARTER, FRANK FIORILLO, KEVIN LAMM,
[4] JOSEPH NOFI, and THOMAS SNYDER,
Plaintiffs,
[5] -against- Case No. 07-Civ-1215
(SJF)(ETB)
[6] INCORPORATED VILLAGE OF OCEAN BEACH; MAYOR
JOSEPH C. LOEFFLER, JR., individually and in
[7] his official capacity; former mayor NATALIE
K. ROGERS, individually and in her official
[8] capacity; OCEAN BEACH POLICE DEPARTMENT;
ACTING DEPUTY POLICE CHIEF GEORGE B. HESSE,
[9] individually and in his official capacity;
SUFFOLK COUNTY; SUFFOLK COUNTY POLICE
[10] DEPARTMENT; SUFFOLK COUNTY DEPARTMENT: OF
CIVIL SERVICE; and ALISON SANCHEZ,
[11] individually and in her official capacity,
Defendants.
[12] _____X
[13] 85 Fifth Avenue
[14] New York, New York
[15]
[16] February 20, 2009
[17] 10:03 A.M.
[18]
[19] VIDEOTAPE DEPOSITION of FRANK
[20] FIORILLO, taken pursuant to the Federal
[21] Rules of Civil Procedure, and Notice, held
[22] at the above-mentioned time and place before
[23] Edward Leto, a Notary Public of the State of
[24] New York.
[25]

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[1]
[2] APPEARANCES:
[3] THOMPSON WIGDOR & GILLY LLP
Attorneys for Plaintiffs
[4] 85 Fifth Avenue
New York, New York 10003
[5] BY: ANDREW S. GOODSTADT, ESQ.
[6] RIVKIN RADLER LLP
Attorneys for Defendants
[7] Incorporated Village of Ocean
Beach, Mayor Joseph C. Loeffler,
[8] Jr., former Mayor Natalie K.
Rogers, and Ocean Beach Police
[9] Department
926 Reckson Plaza
[10] Uniondale, New York 11556
BY: KENNETH A. NOVIKOFF, ESQ.
[11]
MARK, O'NEILL, O'BRIEN & COURTNEY, P.C.
[12] Attorneys for Defendant Acting
Deputy Police Chief George B.
[13] Hesse
530 Saw Mill River Road
[14] Elmsford, New York 10523
BY: KEVIN W. CONNOLLY, ESQ.
[15]
SUFFOLK COUNTY ATTORNEY'S OFFICE
[16] Attorneys for Defendants Suffolk
County, Suffolk County Police
[17] Department, Suffolk County
Department of Civil Service, and
[18] Alison Sanchez
100 Veterans Memorial Highway
[19] Hauppauge, New York 11788
BY: ARLENE ZWILLING, ESQ.
[20]
[21] ALSO PRESENT
Kenneth Gray, General Counsel, Ocean
[22] Beach Police Department
Albert Santana, Legal Video Specialist
[23]
[24]
[25]

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[1]
[2] IT IS HEREBY STIPULATED AND
[3] AGREED by and among counsel for the
[4] respective parties hereto, that the filing,
[5] sealing and certification of the within
[6] deposition shall be and the same are hereby
[7] waived;
[8] IT IS FURTHER STIPULATED AND
[9] AGREED that all objections, except to the
[10] form of the question, shall be reserved to
[11] the time of the trial;
[12] IT IS FURTHER STIPULATED AND
[13] AGREED that the within deposition may be
[14] signed before any Notary Public with the
[15] same force and effect as if signed and sworn
[16] to by the Court.

[17]
[18]
[19]
[20]
[21]
[22]
[23]
[24]
[25]

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[1] *F. Fiorillo*
[2] **THE VIDEOGRAPHER:** This is tape
[3] number one in the videotape deposition
[4] of Frank Fiorillo in the matter of
[5] Edward Carter, et al, Plaintiffs,
[6] versus Incorporated Village of Ocean
[7] Beach, et al, Defendants, in the United
[8] States District Court, Eastern District
[9] of New York, case number
[10] 07-CIV-1215(SJF)(ETB), on February 20,
[11] 2009 at approximately 10:16 a.m.
[12] I'm Albert Santana from the firm
[13] of Precise Court Reporting and I am the
[14] legal video specialist. The court
[15] reporter is Ed Leto in association with
[16] Precise Court Reporting.
[17] For the record, will counsel
[18] please introduce themselves.
[19] **MR. GOODSTADT:** Andrew
[20] Goodstadt, Thompson, Wigdor & Gilly, on
[21] behalf of the Plaintiffs.
[22] **MR. NOVIKOFF:** On behalf of all
[23] the Village Defendants, except Sergeant
[24] Hesse, Ken Novikoff, Rivkin Radler.
[25] **MR. CONNOLLY:** On behalf of

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[1] *F. Fiorillo*
[2] Defendant George B. Hesse, Kevin W.
[3] Connolly of Mark, O'Neill, O'Brien &
[4] Courtney.
[5] **MR. GRAY:** Kenneth Gray from
[6] the law firm Bee Ready Fishbein Hatter
[7] & Donovan, Village attorneys, Village
[8] of Ocean Beach.
[9] **MS. ZWILLING:** For the County
[10] Defendants, Arlene Zwilling for
[11] Christine Malafi, Suffolk County
[12] Attorney.
[13] **THE VIDEOGRAPHER:** Now will the
[14] court reporter please swear in the
[15] witness.
[16] FRANK FIORILLO, having first
[17] been duly sworn by a Notary Public of the
[18] State of New York, was examined and
[19] testified as follows:
[20] **THE REPORTER:** Please state
[21] your name for the record.
[22] **THE WITNESS:** Frank Fiorillo.
[23] **THE REPORTER:** Please state
[24] your address.
[25] **THE WITNESS:** 7 Wellwood

Page 6

[1] *F. Fiorillo*
[2] Avenue, Farmingdale, New York 11735.
[3] **THE REPORTER:** Thank you.
[4] **MR. NOVIKOFF:** Andrew, regular
[5] stips?
[6] **MR. GOODSTADT:** Yes.
[7] **MR. NOVIKOFF:** Okay.
[8] **EXAMINATION BY**
[9] **MR. NOVIKOFF:**
[10] **Q:** Mr. Fiorillo, at any point in
[11] time in the year 2005, did you receive
[12] unemployment benefits?
[13] **A:** No. I think it was 2006.
[14] **Q:** So the answer would be "no"?
[15] **A:** The answer would be, to the best
[16] of my recollection, I was — I was
[17] working —
[18] **Q:** I don't need — my answer was
[19] just yes or no or if you don't recall, you
[20] don't recall?
[21] **A:** I don't recall 2005.
[22] **Q:** How about 2004?
[23] **A:** No. I was working then.
[24] **Q:** How about 2003?
[25] **A:** No.

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F. Fiorillo

[1]
[2] Q: How about 2006?
[3] A: I believe so.
[4] Q: When did you first apply for
[5] unemployment benefits?
[6] A: In I would say the spring of
[7] 2006.
[8] Q: Was it before or after you were
[9] advised by Ocean Beach that you would not be
[10] working for them for the 2006 season?
[11] MR. GOODSTADT: Just so we're
[12] on the same agreement —
[13] MR. NOVIKOFF: Same
[14] understanding. In fact, I even phrased
[15] the question so we wouldn't have to do
[16] that.
[17] MR. GOODSTADT: Right. Right.
[18] A: I'm not quite sure what month it
[19] started, but it was in the springtime of
[20] 2006 I believe.
[21] Q: No. My question is in what
[22] month, sir. It's in relation to when you
[23] were advised by Ocean Beach. So let me
[24] maybe back it up a little bit. Do you
[25] recall being advised by anyone at Ocean

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F. Fiorillo

[1] Beach that you would not be working for them
[2] for the 2006 season?
[3] A: Well, let's see. On April 2,
[4] 2006, that was the day I was fired.
[5] MO MR. NOVIKOFF: Well, that's
[6] nice. Motion to strike.
[7] Q: My answer is, do you recall —
[8] it's a yes or no question, sir — do you
[9] recall being advised by anyone at Ocean
[10] Beach that you were not going to work for
[11] them for the 2006 season, yes or no?
[12] A: At what time?
[13] Q: I'll rephrase the question. Were
[14] you advised at any point in time in 2006
[15] that you were not going to work for Ocean
[16] Beach for the 2006 season?
[17] A: Yes.
[18] Q: Were you advised by someone at
[19] Ocean Beach?
[20] A: Yes.
[21] Q: Who were you advised by?
[22] A: George Hesse.
[23] Q: Okay. What month were you
[24] advised by George Hesse?
[25]

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F. Fiorillo

[1]
[2] A: April.
[3] Q: What day in April?
[4] A: The second day.
[5] Q: Okay. Now with regard to
[6] unemployment benefits, did you apply for
[7] unemployment benefits before April 2, 2006?
[8] A: I might have. I'm not — I don't
[9] recall.
[10] Q: Okay. Were you working at any
[11] job in 2006 prior to April 2, 2006?
[12] A: Yes.
[13] Q: What were you working — what
[14] job were you working at?
[15] A: I was working as a driver. As a
[16] driver.
[17] Q: For whom?
[18] A: For LLC Maintenance.
[19] Q: Okay. And how much — were you
[20] an hourly employee or an annual salaried
[21] employee?
[22] MR. GOODSTADT: Objection.
[23] A: How did they base it. I — I
[24] guess it was based on, um, an annual salary.
[25] Q: What was your annual salary?

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F. Fiorillo

[1]
[2] A: I didn't work the whole year, so.
[3] Q: I understand, but when you first
[4] started, did they tell you what your annual
[5] salary would be?
[6] A: I think, approximately, the base
[7] salary was 60,000.
[8] Q: Okay. Now in 2006, prior to
[9] April 2, 2006, were you working for any
[10] other company or individual for which you
[11] were paid a salary?
[12] A: Yes.
[13] Q: For whom?
[14] A: In which year?
[15] Q: 2006, prior to April 2?
[16] A: Oh, in 2006? Ocean Beach.
[17] Q: Okay. And were you a seasonal
[18] employee in 2006 prior to April 2, 2006?
[19] MR. GOODSTADT: Objection.
[20] A: No.
[21] Q: Well, do you understand what I
[22] meant by the term "seasonal employee"?
[23] A: Absolutely.
[24] Q: What was your understanding?
[25] A: My understanding was if you

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[1] *F. Fiorillo*
[2] worked two weeks — approximately two weeks
[3] before Memorial Day and approximately two
[4] weeks after Labor Day, you were considered
[5] seasonal.
[6] Q: Okay. Were you a part — to your
[7] understanding, in 2006, prior to April 2,
[8] were you a part-time employee for Ocean
[9] Beach?
[10] A: Yes.
[11] Q: Okay. Other than for Ocean Beach
[12] and other than for a driver, were you — as
[13] a driver for that company, were you employed
[14] by any other entity or individual in 2006
[15] prior to April 2, 2006?
[16] A: I don't believe so.
[17] Q: Okay. After April 2, 2006 — and
[18] we're only now in the year 2006 — were you
[19] employed by anybody?
[20] A: After April 2, 2006?
[21] Q: Yes.
[22] A: No.
[23] Q: Okay. So if I — and tell me if
[24] I'm wrong — if I understood your testimony
[25] correctly, after April 2, 2006, for the

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[1] *F. Fiorillo*
[2] remaining year 2006, you did not work for
[3] anybody for which you were paid?
[4] A: I don't believe so.
[5] Q: Okay. I notice you're wearing a
[6] suit today, sir. Have you been appearing at
[7] every deposition in this case?
[8] A: No.
[9] MR. GOODSTADT: Objection.
[10] Q: Do you recall what deposition you
[11] didn't appear for?
[12] MR. GOODSTADT: Objection.
[13] A: I'm not sure.
[14] Q: Okay. Were you at Mr. Richard
[15] Bosetti's deposition?
[16] A: Yes.
[17] Q: That was last week, correct?
[18] A: Um, I don't recall the exact day.
[19] Q: But do you recall it was last
[20] week?
[21] A: I would — that would be fair to
[22] say.
[23] Q: Were you at Ms. Sanchez's
[24] deposition yesterday?
[25] A: No.

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[1] *F. Fiorillo*
[2] Q: You were not at Ms. Sanchez's
[3] deposition yesterday?
[4] A: No, I was not.
[5] MS. ZWILLING: Two days ago.
[6] Q: I'm sorry, two days ago?
[7] A: Yes.
[8] Q: Okay. It seemed like yesterday.
[9] Were you wearing a suit in Ms. Sanchez's
[10] deposition?
[11] MR. GOODSTADT: Objection.
[12] A: I didn't know I was required to
[13] wear a suit.
[14] Q: That wasn't my question, sir.
[15] Did you wear a suit at Ms. Sanchez's
[16] deposition?
[17] MR. GOODSTADT: Objection.
[18] A: No.
[19] Q: Did you wear a suit at
[20] Mr. Bosetti's deposition?
[21] A: I didn't know —
[22] MR. GOODSTADT: Objection.
[23] A: — I was required to.
[24] Q: That's interesting, but my
[25] question to you, yes or no, did you wear a

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[1] *F. Fiorillo*
[2] suit at Mr. Bosetti's deposition?
[3] MR. GOODSTADT: Objection.
[4] A: I didn't know I had to.
[5] Q: Yes or no, sir?
[6] MR. GOODSTADT: Objection.
[7] Q: Did you wear a suit at
[8] Mr. Bosetti's deposition?
[9] A: Nobody —
[10] MR. GOODSTADT: Objection.
[11] A: — told me I had to.
[12] Q: Is that a "no, I did not wear a
[13] suit"?
[14] A: I didn't wear one, but I wasn't
[15] advised to wear one. If I was advised to
[16] wear one, I would have.
[17] Q: So my question as to whether or
[18] not — you know what, have you worn a suit
[19] at any other deposition?
[20] MR. GOODSTADT: Objection.
[21] A: As —
[22] MR. NOVIKOFF: What's the basis
[23] of the objection?
[24] MR. GOODSTADT: Well, first of
[25] all, any other deposition you mean with

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[1] *F. Fiorillo*
[2] respect to this case? And second of
[3] all, this is so patently irrelevant,
[4] that going —
[5] **MR. NOVIKOFF:** Sir, at this —
[6] **MR. GOODSTADT:** Let me finish.
[7] You asked for the basis.
[8] **MR. NOVIKOFF:** You told me. It
[9] was patently irrelevant. And I
[10] understand that. And you said form.
[11] I'm rephrasing the form.
[12] **MR. GOODSTADT:** And you've
[13] actually instructed your witnesses not
[14] to answer on patent irrelevancy.
[15] That's why we have to bring a witness
[16] back.
[17] **MR. NOVIKOFF:** You happy you
[18] got that in, Andrew?
[19] **MR. GOODSTADT:** I'm just
[20] explaining to you. You asked for the
[21] basis for it.
[22] **MR. NOVIKOFF:** And you told me
[23] form. Patent irrelevancy.
[24] **MR. GOODSTADT:** I'm not done
[25] yet. You asked a question, let me

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[1] *F. Fiorillo*
[2] finish the question. I want to answer
[3] the question.
[4] **MR. NOVIKOFF:** Go finish what
[5] you want to say.
[6] **MR. GOODSTADT:** Otherwise don't
[7] ask me the question.
[8] **MR. NOVIKOFF:** So finish.
[9] **MR. GOODSTADT:** I'm not
[10] instructing him not to answer at this
[11] point, but there's absolutely no basis
[12] for these questions. It's patently
[13] irrelevant and form.
[14] **Q:** At any other deposition that
[15] you've appeared on this case, have you worn
[16] a suit?
[17] **MR. GOODSTADT:** Objection.
[18] **A:** No.
[19] **Q:** The answer is "no"?
[20] **A:** Correct.
[21] **Q:** Okay. Sir, do you recall filing
[22] a Complaint or having your attorneys file a
[23] Complaint on your behalf in this matter?
[24] **A:** Yes.
[25] **Q:** Okay. And do you recall having

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[1] *F. Fiorillo*
[2] your attorneys file a Notice of Claim on
[3] your behalf?
[4] **A:** Yes.
[5] **Q:** With Ocean Beach?
[6] **A:** Yes.
[7] **Q:** Okay. And with regard to the
[8] Notice of Claim, was your attorney
[9] Mr. Goodstadt's law firm?
[10] **A:** Well, the firm, Mr. Goodstadt.
[11] **Q:** Mr. Goodstadt's law firm, was
[12] Mr. Goodstadt's law firm your attorney when
[13] you filed a Notice of Claim?
[14] **A:** Yes.
[15] **Q:** And was Mr. Goodstadt's law firm
[16] your attorney when the Complaint in this
[17] matter was filed?
[18] **A:** Yes.
[19] **Q:** And do you recall reviewing any
[20] drafts of the Complaint before they were
[21] filed?
[22] **A:** I don't recall.
[23] **Q:** Okay. You don't recall whether
[24] or not you've ever seen — well, prior to
[25] the filing in federal court of the

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[1] *F. Fiorillo*
[2] Complaint, did you review it for accuracy?
[3] **A:** I'm not sure.
[4] **Q:** Is there anything in your
[5] possession, custody or control that would
[6] refresh your recollection?
[7] **A:** No.
[8] **Q:** Would you agree with me, sir,
[9] that filing a federal lawsuit in which you
[10] and the four other Plaintiffs are seeking in
[11] excess of \$25,000,000, is an important
[12] matter in your life?
[13] **A:** Yes.
[14] **MR. GOODSTADT:** Objection.
[15] **Q:** And would you agree with me that
[16] the allegations in the Complaint are what
[17] you are accusing Ocean Beach and other
[18] Defendants of doing during the course of
[19] your employment with Ocean Beach?
[20] **A:** Yes.
[21] **Q:** And would you agree with me that
[22] it would be important to make sure that your
[23] allegations against the Defendants were
[24] accurate and truthful, to the best of your
[25] knowledge?

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[1] *F. Fiorillo*
[2] MR. GOODSTADT: Objection.
[3] A: Yes.
[4] Q: Okay. And would you agree with
[5] me that you would want to ensure, by any way
[6] possible, that what was being filed in this
[7] action was truthful and accurate?
[8] A: Yes.
[9] Q: Okay. And do you have any reason
[10] to believe that what was filed by you in
[11] this Complaint was in fact truthful and
[12] accurate?
[13] A: It was truthful and accurate.
[14] Correct.
[15] Q: And how do you know that if you
[16] didn't read this?
[17] MR. GOODSTADT: Objection.
[18] A: No. You — I think you asked me
[19] before — like the day it was filed, did I
[20] review it then?
[21] Q: No.
[22] A: No?
[23] Q: My question was, prior to it was
[24] filed, did you review it for accuracy?
[25] A: Yes, because —

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[1] *F. Fiorillo*
[2] Q: My question is just yes or no.
[3] A: Yes.
[4] Q: So I'll — so the record is
[5] clear. Did you review the Complaint prior
[6] to it being filed for accuracy?
[7] A: Yes.
[8] Q: And to your knowledge, was
[9] everything that was set forth in there
[10] truthful and accurate?
[11] A: Yes.
[12] Q: And with regard to the
[13] allegations that pertain to you, you had
[14] firsthand knowledge of those acc — those
[15] accusations?
[16] A: Yes.
[17] Q: And what's your understanding of
[18] "firsthand knowledge"?
[19] A: I was a direct witness.
[20] Q: You were a direct witness?
[21] A: (Indicating).
[22] Q: I'm going to show you what I
[23] purport to be a true and accurate copy of
[24] the Complaint that was filed by your
[25] attorneys on your behalf, as well as the

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[1] *F. Fiorillo*
[2] other four Plaintiffs. And it was filed on
[3] March 21, 2007.
[4] MR. GOODSTADT: You want to
[5] mark this?
[6] MR. NOVIKOFF: Do we need to?
[7] I mean, I will — all right. Let's
[8] mark it number one. Fiorillo-1.
[9] (Complaint was marked as Fiorillo
[10] Exhibit-1 for identification; 2/20/09,
[11] E.L.)
[12] Q: Can you take Exhibit-1, and I'm
[13] going to be asking you a series of questions
[14] about that for the next couple hours. Can
[15] you show it to him?
[16] MR. GOODSTADT: Ask him a
[17] question.
[18] MR. NOVIKOFF: Okay. That's
[19] fine.
[20] Q: Please turn to page 44 of the
[21] Complaint. Actually, page 43 of the
[22] Complaint.
[23] A: Can I separate this (indicating)?
[24] Q: If that makes it easier for you,
[25] sure. Are you on page 44? I'm sorry, 43?

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[1] *F. Fiorillo*
[2] A: 43.
[3] Q: Yeah. Let's go to paragraph 186.
[4] A: Yes.
[5] Q: You allege as follows "as set
[6] forth above, Defendants Hesse and Alison
[7] Sanchez conspired to unlawfully destroy
[8] Plaintiffs' careers and shared a mutual
[9] agreement and understanding regarding their
[10] objective to do so and the manner in which
[11] their common objective was to be achieved,
[12] and committed numerous overt acts in
[13] furtherance thereof," do you see that?
[14] A: Yes.
[15] Q: Did you personally — were you —
[16] withdrawn. Were you a direct witness to the
[17] overt acts between — engaged in by Hesse
[18] and Alison Sanchez that you claim to be the
[19] basis for conspiracy?
[20] MR. GOODSTADT: Objection.
[21] Q: Yes or no? If you can't answer
[22] yes or no, that's fine, too. Then you tell
[23] me that.
[24] A: I can't answer that question yes
[25] or no.

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F. Fiorillo

[1] *F. Fiorillo*
[2] **Q:** Okay. Why can't you answer that
[3] question yes or no?
[4] **A:** Because I have to explain the
[5] situation that precipitated this allegation.
[6] **Q:** Okay. Then let's break it down,
[7] sir. There's a reference to "numerous overt
[8] acts." Let's put Mr. Hesse aside. What
[9] were Alison Sanchez's overt acts as you
[10] allege them in 186?
[11] **MR. GOODSTADT:** Objection.
[12] **A:** Her overt acts are in reference
[13] to getting officers qualified in Ocean Beach
[14] that were allowed to work in Ocean Beach
[15] without being qualified. She did not take
[16] action on keeping or preventing the officers
[17] that were working who were not qualified to
[18] work in Ocean Beach. In other words, these
[19] officers were working in Ocean Beach without
[20] the qualifications set forth by Suffolk
[21] County Civil Service.
[22] **Q:** And how do you know that it was
[23] Mrs. Sanchez's responsibility to — well,
[24] actually, you know what, let me just see
[25] that question so I have — use your words

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F. Fiorillo

[1] *F. Fiorillo*
[2] correctly. (Reviewing). How did you know
[3] that it was — well, withdrawn. What is the
[4] basis of your opinion that it was
[5] Ms. Sanchez's responsibility to take action
[6] to ensure that only officers that were
[7] qualified under the Civil Service Law were
[8] allowed to work at Ocean Beach?
[9] **A:** Well, I happened to be there on
[10] several occasions when she called the
[11] station, and she — I asked her who was
[12] calling because she was calling for George
[13] Hesse. So I asked who was calling, and she
[14] was the — she responded that she was
[15] the — oh, the — she handled the account
[16] for Ocean Beach in Civil Service. "Just
[17] tell George Hesse it's Alison." He'll know
[18] who she is.
[19] **Q:** So what exactly did Alison
[20] Sanchez say to you on the phone that leads
[21] you to believe that she was the person
[22] responsible for making sure that only
[23] qualified officers worked at Ocean Beach?
[24] **A:** Because during the course of when
[25] they found out that the officers weren't

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F. Fiorillo

[1] *F. Fiorillo*
[2] qualified or certified, she was the one that
[3] was handling all the — the process,
[4] because in the department, all the cops were
[5] talking about what they had to go through,
[6] and she was the one that was setting up the
[7] stages that they had to go through.
[8] **MO MR. NOVIKOFF:** Move to strike.
[9] **Q:** My question to you, sir, is the
[10] following, and I'll repeat it, what did
[11] Alison Sanchez say to you when she called
[12] the station house and you picked up the
[13] phone, that led you to believe, as you've
[14] testified to, that she was the person
[15] responsible — responsible for ensuring that
[16] only qualified officers worked at Ocean
[17] Beach?
[18] **A:** She told me she was the account
[19] representative for Ocean Beach.
[20] **Q:** Did she say anything else to you?
[21] **A:** No.
[22] **Q:** Okay. And other — prior to
[23] April 2, other than one or two phone calls
[24] that you picked up at the station in which
[25] Alison Sanchez was on the other line, had

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F. Fiorillo

[1] *F. Fiorillo*
[2] you ever spoken to Ms. Sanchez?
[3] **MR. GOODSTADT:** Objection.
[4] **A:** I might have. I — I don't know.
[5] **Q:** Okay. And on how many occasions
[6] do you recall picking up the phone at the
[7] station house and hearing that it was Alison
[8] Sanchez on the other line?
[9] **A:** At least three times.
[10] **Q:** Okay. And do you recall the sum
[11] and substance of any of the other
[12] conversations that you had with Ms. Sanchez
[13] in those three times that you picked up the
[14] phone?
[15] **A:** No.
[16] **Q:** Okay. Now you mentioned the
[17] overt act of Ms. Sanchez's being responsible
[18] for ensuring the compliance of — of the
[19] officers with the qualifications of Civil
[20] Service. What law imposes the obligation of
[21] Ms. Sanchez to be responsible for ensuring
[22] compliance with the Civil Service Laws of
[23] the officers of Ocean Beach?
[24] **MR. GOODSTADT:** Objection.
[25] **A:** What law?

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F. Fiorillo

[1] *F. Fiorillo*
[2] **Q:** Yeah. Are you aware of any law?
[3] **MR. GOODSTADT:** Objection.
[4] **A:** I'm not aware of any law.
[5] **Q:** What law are you aware of that
[6] requires the Suffolk County Civil Service to
[7] be responsible for ensuring compliance with
[8] their laws with regard to police officers at
[9] Ocean Beach?
[10] **MR. GOODSTADT:** Objection.
[11] **A:** Well, I can tell you for a fact
[12] that I was one of them that had to go
[13] through the process — through the whole
[14] process to become a police officer in Ocean
[15] Beach.
[16] **Q:** I'm not asking you about what you
[17] had to do. Are you —
[18] **A:** Well, that's the basis — that's
[19] a little bit of the basis for the question.
[20] **Q:** No, sir. Trust me, it's not.
[21] My question to you —
[22] **MR. GOODSTADT:** Objection.
[23] **Q:** — to the extent that you know,
[24] what law can you point to that requires
[25] Civil Service to ensure that Ocean Beach is

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F. Fiorillo

[1] *F. Fiorillo*
[2] following the laws concerning the
[3] qualification of police officers?
[4] **MR. GOODSTADT:** Objection.
[5] **A:** I don't know.
[6] **Q:** Okay. Now you mentioned that —
[7] the qualification issue with regard to the
[8] overt acts, right?
[9] **A:** Yes.
[10] **Q:** Okay. And that occurred prior
[11] to — your conversations with Ms. Sanchez on
[12] this issue occurred prior to April 2, 2006,
[13] right?
[14] **MR. GOODSTADT:** Objection.
[15] **Q:** Well, I'll withdraw.
[16] **A:** That's not the — no.
[17] **Q:** I'll withdraw the question.
[18] There's an objection. How did
[19] Mrs. Sanchez's alleged failure to ensure
[20] compliance with Civil Service Laws destroy
[21] your career?
[22] **A:** Well, if the — if the officers
[23] that were working in Ocean Beach were
[24] prevented from working in Ocean Beach and
[25] stopped by Civil Service, then I probably

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F. Fiorillo

[1] *F. Fiorillo*
[2] would have — I still would have my job
[3] there.
[4] **Q:** Why do you say that?
[5] **A:** Why do I say that? Because —
[6] **Q:** Let me be specific. Why do you
[7] say specifically that you think you would
[8] still have your job there?
[9] **A:** Because I was — I had to go
[10] through the process. It takes — it takes
[11] a while to go through the process and become
[12] a police officer in Ocean Beach.
[13] **Q:** No. And I understand that.
[14] And —
[15] **A:** So in other words, in that time
[16] period, I would be making more money. I
[17] wouldn't be fired.
[18] **Q:** Well, that's my question, sir.
[19] Let's — you've now stated that one of the
[20] overt acts of Ms. Sanchez, as alleged in
[21] 186, was that she didn't do whatever her job
[22] was with regard to ensuring that the
[23] officers that work for Ocean Beach were
[24] qualified, correct?
[25] **A:** Correct.

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F. Fiorillo

[1] *F. Fiorillo*
[2] **Q:** And you allege also in 186 that
[3] in a conspiracy with Defendant Hesse,
[4] Ms. Sanchez engaged in this overt act to
[5] unlawfully destroy your career, do you see
[6] that?
[7] **A:** Yes.
[8] **Q:** And when I asked you the question
[9] as to how Ms. Sanchez's act, as you
[10] testified to, destroyed your career, you
[11] said, in part, that you would still probably
[12] be at Ocean Beach if she did her job, right?
[13] **A:** I would think so.
[14] **Q:** Okay. So here's my question to
[15] you, sir, why do you think you would still
[16] have your job at Ocean Beach if Ms. Sanchez
[17] had done her job, as you allege that she
[18] should have?
[19] **A:** Well, first of all, George Hesse
[20] wasn't a sergeant. From my understanding,
[21] you have to go through Civil Service and
[22] pass a test to become a sergeant.
[23] **Q:** Okay. All right. So how did the
[24] fact that George Hesse was not a sergeant
[25] play into the destruction of your career as

Page 31

[1] *F. Fiorillo*
[2] it relates to what Ms. Sanchez didn't do?
[3] **A:** Because George Hesse ultimately
[4] became the — I don't know what title he
[5] had. It was either acting deputy chief,
[6] deputy chief, acting chief or chief. I
[7] don't know. But he ultimately became a
[8] person in charge that ultimately fired me.
[9] **Q:** Okay. So I understand now. And
[10] tell me if I'm wrong, because I — I just
[11] want to make sure this is clear, and if I'm
[12] wrong in any regard, tell me. You believe
[13] that because Ms. Sanchez didn't do her job,
[14] George Hesse was allowed to become in a
[15] position at Ocean Beach in which he was then
[16] allowed to fire you for no reason?
[17] **MR. GOODSTADT:** Objection.
[18] **Q:** Is that accurate?
[19] **A:** Pretty accurate.
[20] **Q:** What — okay. Go on.
[21] **A:** Because it could have been —
[22] okay. It could have been Alison Sanchez and
[23] maybe her superior —
[24] **Q:** Okay. Continue.
[25] **A:** That — that didn't, um, oversee

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[1] *F. Fiorillo*
[2] what should have been, um, upheld by Civil
[3] Service.
[4] **Q:** Okay.
[5] **A:** That's my belief.
[6] **Q:** And that's all I'm asking you
[7] about, your belief and the facts as you know
[8] them or you believe you know them. So just
[9] so we're clear, and based upon what you've
[10] just told me, you believe that the reason
[11] why your career was destroyed, as it relates
[12] to Alison Sanchez, is that if Alison Sanchez
[13] and perhaps her superiors had done the right
[14] job, Mr. Hesse would never have been in a
[15] position to be able to fire you?
[16] **A:** I didn't say "never," but maybe
[17] highly unlikely.
[18] **Q:** Okay. And that's because, in
[19] your opinion, Mr. Hesse was not qualified to
[20] be a sergeant because he didn't pass
[21] whatever Civil Service requirements there
[22] were?
[23] **A:** From my understanding.
[24] **Q:** That's all I'm asking. From your
[25] understanding, right? Correct?

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[1] *F. Fiorillo*
[2] **A:** Yes.
[3] **Q:** And, therefore, had he — had
[4] the fact that his lack of qualifications
[5] been enforced by Civil Service, he would
[6] never have been put in a position to have
[7] the authority to make a decision whether or
[8] not to fire you as you say he did?
[9] **A:** I would think so.
[10] **Q:** Okay. Great. What other overt
[11] act, if any, did Alison Sanchez engage in,
[12] other than what you've just testified to,
[13] that you believe led to the destruction of
[14] your career?
[15] **A:** I believe that Alison Sanchez,
[16] from what Alison Sanchez told me when I went
[17] to her office shortly thereafter when I was
[18] fired that week, the week of I believe it
[19] was April 5, Wednesday afternoon, when I
[20] went into her office, we spoke about me
[21] being fired, Kevin Lamm being fired, Joe
[22] Nofi being fired and Eddie Carter being
[23] fired at the time. Tommy Snyder was not
[24] fired at this time.
[25] **Q:** Okay.

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[1] *F. Fiorillo*
[2] **A:** Okay? So I believe that from
[3] what she told me, she — she told me and
[4] Kevin and Joe that she had spoke to George
[5] Hesse and Maryanne Minerva, and she was
[6] expecting us. She said that she spoke to
[7] them prior to us getting fired, so,
[8] therefore, I believe that they came up with
[9] whatever they were going to do before April
[10] 2, and then April 2 we were blind-sided and
[11] fired.
[12] **Q:** Okay. So, again, just so I'm
[13] clear, you believe that — and let's assume
[14] for the purposes of the question that
[15] Ms. Sanchez spoke with Mr. Hesse
[16] specifically about certain employment
[17] decisions relating to you and the other
[18] Plaintiffs prior to April 2. So we're —
[19] **A:** Yes. I follow.
[20] **Q:** We're going to make that
[21] assumption for the purpose of my questions.
[22] You believe that an overt act to destroy
[23] your career was the fact that Ms. Sanchez
[24] engaged in a conversation with at least
[25] Mr. Hesse concerning the fact that Mr. Hesse

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[1] *F. Fiorillo*
[2] wanted to terminate you prior to April 2?
[3] A: Well, it was painfully apparent.
[4] Q: No. No. I'm just confirming,
[5] that's what you believe the overt act was?
[6] A: Absolutely.
[7] Q: That there was a conversation
[8] between Mr. Hesse and Ms. Sanchez prior to
[9] April 2?
[10] A: At least those two.
[11] Q: At least those two, exactly, at
[12] least those two, concerning Mr. Hesse's
[13] decision to fire you?
[14] A: Yes.
[15] Q: Okay.
[16] A: Including Maryanne Minerva,
[17] because that's what I was told.
[18] Q: According to you, by Ms. Sanchez?
[19] A: Well, she told me that.
[20] Q: I'm not challenging what you
[21] said. This is what you've said. I'm just
[22] trying to understand it. So you believe
[23] that certainly Sanchez had a conversation
[24] with Hesse prior to April 2, and based upon
[25] what you say Sanchez told you, she had a

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[1] *F. Fiorillo*
[2] conversation with Minerva prior to April 2
[3] concerning Hesse's decision to terminate?
[4] A: Well, I don't know if it was
[5] Hesse's decision.
[6] Q: Okay.
[7] A: But, ultimately, it was Hesse's
[8] decision because he's the one who fired us.
[9] Q: Okay. Well, whose decision could
[10] it have been, in your opinion, if it wasn't
[11] Hesse?
[12] A: I don't know who else was
[13] involved.
[14] Q: Okay. But you believe, based
[15] upon what Sanchez told you, she had a
[16] conversation with —
[17] A: She only told me Hesse and
[18] Minerva.
[19] MR. GOODSTADT: Let him finish
[20] the question.
[21] Q: At least based upon your
[22] testimony, Sanchez had a conversation with
[23] Hesse, prior to April 2, that concerned the
[24] possibility of you being, as you say, fired
[25] from Ocean Beach?

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[1] *F. Fiorillo*
[2] A: She told me both Hesse and
[3] Minerva.
[4] Q: I understand. We're with Hesse
[5] now, right?
[6] A: Okay.
[7] Q: And you also believe that Sanchez
[8] had a conversation with Minerva?
[9] A: Based on what Alison Sanchez told
[10] me.
[11] Q: Right. So we're on the same
[12] page. Were you a party to the conversation
[13] between Hesse and Sanchez?
[14] A: No.
[15] Q: Were you a party to the
[16] conversation between Minerva and Sanchez?
[17] A: No.
[18] Q: Do you have any idea, based upon
[19] any document that you've seen, as to what
[20] the conversation between Hesse and Sanchez
[21] involved?
[22] A: No.
[23] Q: Okay. Do you have any idea,
[24] based upon any document that you've seen, as
[25] to what the sum and substance of the

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[1] *F. Fiorillo*
[2] conversation was between Sanchez and
[3] Minerva?
[4] A: No.
[5] Q: Now were you — you were there
[6] yesterday when Ms. Sanchez testified about
[7] her conversation with Hesse concerning
[8] Hesse's thoughts about not rehiring certain
[9] police officers for the 2006 season,
[10] correct?
[11] MR. GOODSTADT: Objection.
[12] Q: I'm sorry, two days ago. Were
[13] you present at Ms. Sanchez's deposition?
[14] A: Yes.
[15] Q: Do you recall her testifying with
[16] regard to the sum and substance of her
[17] communications with Mr. Hesse prior to April
[18] 2, concerning the decision — the ultimate
[19] decision regarding you not being rehired for
[20] the 2006 season?
[21] MR. GOODSTADT: Objection.
[22] A: I don't know what specifically
[23] was said about me.
[24] Q: Okay. Then I'll withdraw the
[25] question. Do you recall Ms. Sanchez

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F. Fiorillo

[1] testifying about a conversation she had with
[2] Mr. Hesse, prior to April 2, concerning what
[3] the rights and obligations were of certain
[4] officers under the Civil Service Law?
[5] **A:** To be honest with you, I don't
[6] recall exactly what she said.
[7] **Q:** Do you recall the conversation —
[8] **A:** I don't recall the conversation.
[9] I really don't.
[10] **Q:** Do you recall — do you recall
[11] Ms. Sanchez even testifying about that
[12] subject matter?
[13] **A:** I can't even remember, to tell
[14] you the truth.
[15] **Q:** Not a problem. Okay. So we have
[16] the fact that she had a conversation with
[17] Mr. Hesse and Mr. Minerva as —
[18] **A:** Ms. Minerva.
[19] **Q:** Ms. Minerva as an overt act. We
[20] have the fact, according to your testimony,
[21] that you believe that she didn't do her job
[22] with regard to the certification of certain
[23] officers at Ocean Beach. Any other overt
[24] act that you believe Ms. Sanchez engaged in
[25]

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F. Fiorillo

[1] that you claim led to the destruction of
[2] your career?
[3] **A:** Not to my knowledge.
[4] **Q:** Okay. You make reference in
[5] paragraph 180 — 186 to a mutual agreement
[6] and understanding regarding their objective
[7] to destroy your career, do you see that?
[8] **A:** Yes.
[9] **Q:** Okay. What evidence do you have
[10] that Ms. Sanchez had the intent to destroy
[11] your career?
[12] **MR. GOODSTADT:** Objection.
[13] **A:** What evidence?
[14] **Q:** Well, I'll rephrase the question.
[15] What forms the basis for your opinion that
[16] Ms. Sanchez formed the intent, prior to
[17] April 2, 2006, to destroy your career?
[18] **MR. GOODSTADT:** Objection.
[19] **A:** Well, my belief is that there was
[20] a conspiracy between at least Alison Sanchez
[21] and George Hesse to get rid of us five for
[22] sure.
[23] **Q:** Okay. Were there anybody else,
[24] other than the five Plaintiffs in this case,
[25]

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F. Fiorillo

[1] that were not rehired for the 2006 season,
[2] and, again, we have an understanding of the
[3] phrase that I just used?
[4] **A:** There were two other officers,
[5] but they didn't work there — Billy Powell,
[6] if he worked one day, I think he worked one
[7] day. Maybe, okay? But it wasn't — in
[8] other words, us five, we were part time. We
[9] worked all year round. Um, and we were more
[10] consistent on the work level.
[11] **MR. NOVIKOFF:** And I'm going to
[12] move to strike that part of the answer
[13] that was not responsive.
[14] **Q:** My question to you, sir, is were
[15] there any other officers, other than the
[16] five Plaintiffs in this action, that were
[17] not rehired for the 2006 season?
[18] **MR. GOODSTADT:** Objection.
[19] **Q:** Yes or no?
[20] **MR. GOODSTADT:** Objection.
[21] **Q:** To the best of your knowledge?
[22] **A:** Well, I only know up until April
[23] 2, so.
[24] **Q:** That's what I'm saying. Up
[25]

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F. Fiorillo

[1] through — other than the five Plaintiffs in
[2] this action, were there any other officers
[3] that were not rehired for the 2006 season,
[4] that you are aware of, yes or no?
[5] **MR. GOODSTADT:** Objection.
[6] **A:** Then I can't — I can say I don't
[7] know.
[8] **Q:** Okay. Fine. Now, so you believe
[9] that Ms. Sanchez engaged in a conspiracy
[10] with Hesse and that's the reason why she
[11] formed the intent to destroy your career.
[12] My question to you is, what evidence, if
[13] any, do you have as to when Ms. Sanchez
[14] formed the intent to destroy your career?
[15] **MR. GOODSTADT:** Objection.
[16] **A:** I don't have any evidence.
[17] **Q:** What evidence can you point to
[18] and that you can advise the jury that will
[19] be watching this videotape that you believe
[20] shows that Ms. Sanchez formed the intent to
[21] destroy your career, your police career
[22] prior to April 2, 2006?
[23] **MR. GOODSTADT:** Objection.
[24] **A:** What evidence?
[25]

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[1] *F. Fiorillo*

[2] Q: Yeah, that you can point to?

[3] A: Well, I can point to it, but it's

[4] not — in other words, it could be

[5] produced.

[6] Q: Okay. Tell me. I'm giving you

[7] the opportunity to tell the jury —

[8] A: All right.

[9] Q: — what evidence do you think —

[10] A: I'm going to tell the jury right

[11] now —

[12] Q: Hold on. Excuse me. That you

[13] think — evidence you think exists to

[14] demonstrate that Alison Sanchez formed the

[15] intent, prior to April 2, 2006, to destroy

[16] your career?

[17] MR. GOODSTADT: Objection.

[18] A: I'm going to tell the jury right

[19] now that I believe that the Suffolk County

[20] Civil Service Department, through Suffolk —

[21] through the County of Suffolk, can produce

[22] phone records, prior to April 2, from

[23] conversations going from Ocean Beach to

[24] Civil Service and back and forth. That

[25] would be evidence.

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[1] *F. Fiorillo*

[2] Q: Okay. Let's assume that you are

[3] 100 percent correct, that prior to April 2,

[4] there will be phone records that demonstrate

[5] that Civil Service and Ocean Beach had

[6] discussions over the phone. What evidence

[7] can you tell the jury that on these phone

[8] calls, Ms. Sanchez formed the intent to

[9] destroy your career prior to April 2, 2006?

[10] MR. GOODSTADT: Objection.

[11] A: Well, we might get that out of

[12] George Hesse.

[13] Q: I'm not asking about what we may

[14] get out of whom.

[15] A: Well, he's a party in the

[16] conversation.

[17] Q: Mr. Fiorillo, I'm asking you

[18] about Ms. Sanchez. What evidence can you

[19] tell the jury right now, and it's been

[20] almost two years since you filed this

[21] Complaint, that you could tell the jury

[22] shows that Alison Sanchez formed the intent,

[23] prior to April 2, 2006, to destroy your

[24] police career?

[25] MR. GOODSTADT: Objection. He

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[1] *F. Fiorillo*

[2] already testified to a lot of it.

[3] Q: Okay. I'm asking you a question.

[4] A: Well, I just — I just said what

[5] I said about the phone records. That could

[6] be evidence.

[7] Q: Okay.

[8] A: I mean, it could — it could

[9] be — it could be discovered — it could be,

[10] um —

[11] Q: So other than what —

[12] A: Follow up —

[13] Q: Go ahead.

[14] A: It could be followed up and maybe

[15] something will come out of that. I don't

[16] know. But it could be. It's evidence.

[17] It's — it's a trail. A paper trail.

[18] Q: Okay. So I understand it now.

[19] Other than what may be — tell me if I'm

[20] wrong, other than what may be discovered in

[21] additional documents, and other than what

[22] Mr. Hesse may say, and other than what may

[23] be said by other witnesses that may come

[24] down the pike in this matter, you don't have

[25] any evidence that you can point to right

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[1] *F. Fiorillo*

[2] now —

[3] A: No.

[4] Q: — to suggest that Ms. Sanchez

[5] formed the intent, prior to April 2, to

[6] destroy your career?

[7] MR. GOODSTADT: Objection.

[8] Other than what he already testified

[9] to?

[10] Q: I'm sorry, what was your answer?

[11] A: Well, I just said about the

[12] evidence that I stated prior to this

[13] question. But I don't have any other

[14] evidence.

[15] Q: Great. Okay. I'll accept that

[16] answer. Thank you. And what you've

[17] testified prior to the last question with

[18] regard to Ms. Sanchez was that she told you

[19] she had a conversation with Hesse and

[20] Minerva?

[21] A: Correct.

[22] Q: And that you don't believe she

[23] did her job correctly with regard to the

[24] qualifications of police officers at Ocean

[25] Beach?

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[1] *F. Fiorillo*
[2] A: That's my belief.
[3] Q: That — that's fine. Great.
[4] When do you believe Mr. Hesse and
[5] Ms. Sanchez formed the common objective, as
[6] you've alleged in 186, to destroy your
[7] career?
[8] MR. GOODSTADT: Objection.
[9] A: Prior to April 2.
[10] Q: Okay. When prior to April 2?
[11] A: That I don't know, because —
[12] Q: Months prior to April 2? Years
[13] prior to April 2? Weeks?
[14] A: Well, I don't know, but I can
[15] explain further on — on the context of what
[16] happened prior to April 2 that would give
[17] you a partial answer to that question.
[18] Q: No. I'm only interested right
[19] now as to when you believe Hesse and Sanchez
[20] formed the common objective to destroy your
[21] career?
[22] MR. GOODSTADT: Objection.
[23] A: I would say between March 11 and
[24] April 2.
[25] Q: Okay. And March 11, what

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[1] *F. Fiorillo*
[2] significance does March 11 have?
[3] A: Very significant.
[4] Q: I'm asking you, what significance
[5] does it have?
[6] A: I got a letter from the Ocean
[7] Beach Police Department from George Hesse
[8] that stated that we were going to have a
[9] departmental meeting on April 2, and that
[10] new ID would be issued to all. Now my
[11] understanding is I'm part of "all" in that
[12] — in that letter.
[13] Q: Okay.
[14] A: Okay?
[15] Q: Sure.
[16] A: So I was — I was upset. I was
[17] beside myself. I was — I was — I was
[18] traumatized, okay, that day when I was
[19] fired. Because that letter was not true,
[20] okay? It was — it was a ploy on the part
[21] of Hesse to fire us.
[22] MO Q. Okay. Well, that's my question,
[23] sir, and I'm going to move to strike that
[24] aspect of the answer that's not responsive.
[25] But you say there was a ploy on the part of

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[1] *F. Fiorillo*
[2] Hesse, and I understand that that's one of
[3] your — your allegations in this Complaint.
[4] My question to you is more specifically,
[5] when do you think Ms. Sanchez joined in the
[6] ploy as you call it with Mr. Hesse to
[7] specifically destroy your career?
[8] MR. GOODSTADT: Objection.
[9] A: Prior to April 2, because she
[10] told me that.
[11] Q: That she told you that she joined
[12] in with Hesse to destroy your career?
[13] A: Well, "joining in" could mean
[14] that what she told me was she spoke to
[15] George Hesse and Maryanne Minerva. So I
[16] consider that to be, you know, they — they
[17] talked between themselves — amongst
[18] themselves.
[19] Q: Even though you don't know what
[20] they talked about specifically?
[21] A: I have no idea.
[22] Q: Okay. Let me ask you to turn to
[23] page 23. Do you see in the middle it says
[24] "Alison Sanchez conspires with Hesse to
[25] destroy Plaintiffs' careers"?

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[1] *F. Fiorillo*
[2] A: Yes.
[3] Q: Okay. And paragraph 99 reflects
[4] the fact that you met with Nofi and Lamm
[5] with Ms. Sanchez a few days after April 2;
[6] is that correct?
[7] A: That's correct.
[8] Q: Okay. And you allege "upon
[9] information and belief, Sanchez was
[10] responsible for appointing and approving the
[11] hiring of the uncertified officers at the
[12] OBPD," do you see that?
[13] A: Yes.
[14] Q: What's the basis for your belief
[15] as to the accuracy of what I just read?
[16] A: Okay. Alison Sanchez was the
[17] account holder for Ocean Beach. She was
[18] responsible for getting actually civilians
[19] together to go forward to, um, their
[20] qualifying tests. So based on their passing
[21] those qualifying exams, she would then —
[22] it's her say to Ocean Beach that she
[23] would — she would tell them if they were
[24] qualified or certified, whichever word you
[25] want to use, same difference.

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[1] *F. Fiorillo*

[2] Q: Right.

[3] A: That they can go forward and they

[4] would be appointed, and then Ocean Beach can

[5] either hire them or fire them or not hire

[6] them. I'm sorry.

[7] Q: Okay. Well, you allege in this

[8] that she was responsible for approving the

[9] hiring of the uncertified officers, do you

[10] see that?

[11] A: Yes.

[12] Q: What information can you advise

[13] the jury that you have or that you've seen

[14] to support the allegation that Ms. Sanchez

[15] had the responsibility to approve the

[16] hiring?

[17] MR. GOODSTADT: Objection.

[18] A: Well, I want to state that based

[19] on her approving the qualified candidates,

[20] then the hiring would take place. She would

[21] be ultimately in the process, I would think.

[22] Q: And if she indicated that the

[23] qualifications were not met, what authority

[24] did she have, if any, to your knowledge, to

[25] prevent Ocean Beach from filing — from

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[1] *F. Fiorillo*

[2] hiring certain officers?

[3] MR. GOODSTADT: Objection.

[4] A: Well, I think that she would have

[5] to report to Ocean Beach that they wouldn't

[6] be certified to work there.

[7] Q: Right. So now my question to you

[8] is let's assume that she did that. To your

[9] knowledge, since you made this allegation,

[10] did she have the authority to stop Ocean

[11] Beach from hiring an unqualified officer?

[12] MR. GOODSTADT: Objection.

[13] A: I don't know that part.

[14] Q: Sir, you've alleged here "upon

[15] information and belief, Sanchez was

[16] responsible for appointing and approving the

[17] hiring." Okay.

[18] A: I think her responsibility

[19] probably entails all of that.

[20] Q: Do you know that for a fact?

[21] A: No.

[22] Q: Do you know specifically what

[23] Ms. Sanchez's responsibilities were with

[24] regard to the hiring and appointing of

[25] police officers at Ocean Beach?

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[1] *F. Fiorillo*

[2] A: No.

[3] MR. GOODSTADT: Objection.

[4] Q: Do you know what authority she

[5] has to go to court and stop Ocean Beach from

[6] hiring unqualified officers?

[7] MR. GOODSTADT: Objection.

[8] A: I don't know.

[9] Q: Do you know anything about what

[10] Ms. Sanchez's specific responsibilities and

[11] authority was with regard to the hiring of

[12] officers at Ocean Beach?

[13] MR. GOODSTADT: Objection.

[14] A: I don't know.

[15] Q: You've approved, though, sir, the

[16] suing of Ms. Sanchez in her individual

[17] capacity; is that correct?

[18] A: Yes.

[19] Q: And you're seeking money damages

[20] from Ms. Sanchez, correct?

[21] A: Yes.

[22] Q: And if I understand you

[23] correctly, you have no idea what Ms. Sanchez

[24] ever said to Mr. Hesse on the phone call

[25] that she said she had, correct?

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[1] *F. Fiorillo*

[2] MR. GOODSTADT: Objection.

[3] A: Correct.

[4] Q: And you have no idea what

[5] Ms. Sanchez's authority and responsibilities

[6] were with regard to the appointment and the

[7] hiring of officers at Ocean Beach, correct?

[8] MR. GOODSTADT: Objection.

[9] A: Correct.

[10] Q: And, in fact, you don't have any

[11] idea as to what her authority and

[12] responsibilities were with regard to any

[13] issue at Ocean Beach; isn't that correct?

[14] MR. GOODSTADT: Objection.

[15] A: No.

[16] Q: No.

[17] A: That's not correct.

[18] Q: Okay. Let's go to paragraph 100.

[19] You allege the following, "Sanchez assured

[20] Officers Fiorillo, Nofi and Lamm that their

[21] conversation would remain confidential," do

[22] you see that?

[23] A: Yes.

[24] Q: Did she tell you, Mr. Fiorillo,

[25] that the conversation would be confidential?

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F. Fiorillo

[1] A: She told me specifically.
[2] Q: What did she specifically say to
[3] you?
[4] A: She said that this conversation
[5] amongst us would be confidential, because I
[6] explained to her when we first initially
[7] walked in, I said, "We all have livelihoods.
[8] We want this to remain confidential," and
[9] especially for Joe Nofi because he worked
[10] for the Suffolk County Health Department.
[11] Q: Now you were here yesterday when
[12] Ms. Sanchez test — I mean two days ago —
[13] withdrawn. You were at the County's office
[14] during Ms. Sanchez's deposition two days
[15] ago, right?
[16] A: Yes.
[17] Q: And you recall her specifically
[18] denying that she ever said that she told you
[19] that the conversation would be confidential,
[20] correct?
[21] A: Correct.
[22] Q: So would it be fair to say and
[23] you can tell the jury that with regard to
[24] this specific issue, Ms. Sanchez was lying?
[25]

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F. Fiorillo

[1] A: Absolutely she was lying.
[2] Q: Okay. Now did you ask
[3] Ms. Sanchez if she was a lawyer?
[4] MR. GOODSTADT: Objection.
[5] A: If she's a lawyer?
[6] Q: During that meeting?
[7] A: No.
[8] Q: Are you aware of any provision in
[9] the Civil Service Law that would require
[10] Ms. Sanchez to keep your conversations
[11] confidential?
[12] MR. GOODSTADT: Objection.
[13] A: Why would she say that she would
[14] if she —
[15] Q: I'm just asking — no, that's not
[16] my question, sir. Are you aware of any
[17] requirements in the Civil Service Law that
[18] would require Ms. Sanchez from keeping your
[19] conversations confidential?
[20] A: I don't know. I don't know
[21] anything about that requirement.
[22] Q: Okay. And had you known at the
[23] time that you met with her that — on
[24] April — a few days after April 2, that
[25]

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F. Fiorillo

[1] George Hesse had bragged about having a
[2] sexual relationship with Ms. Sanchez?
[3] A: George Hesse bragged about it.
[4] Q: Yes, sir. My question — please,
[5] listen to my question. Were you aware,
[6] prior to meeting Ms. Sanchez a few days
[7] after April 2, that George Hesse had bragged
[8] about having sex with Alison Sanchez?
[9] A: Yes.
[10] Q: Okay. Because you've alleged
[11] that in this Complaint, correct?
[12] A: Well, yes, because —
[13] Q: No. I'm just asking —
[14] A: Yes.
[15] Q: Yes. So notwithstanding — if I
[16] understand, notwithstanding the fact that
[17] you believed at the time of this meeting
[18] with Alison Sanchez that George Hesse had
[19] bragged about having sex with her, you
[20] trusted Ms. Sanchez to keep whatever you
[21] said confidential?
[22] A: What did — what did —
[23] Q: My —
[24] A: — one thing have to do with the
[25]

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F. Fiorillo

[1] other?
[2] Q: Well, that's my question to you,
[3] sir, and I'll rephrase it. Is it your
[4] contention that notwithstanding the fact
[5] that you knew that George Hesse had bragged
[6] about having sex with Alison Sanchez prior
[7] to the meeting that we're talking about, you
[8] nevertheless trusted her to keep what you
[9] said to her confidential?
[10] A: I didn't know what to do at the
[11] time. The only thing that I could possibly
[12] do was go to Civil Service, okay? I — I
[13] trusted that I was going to a person, a
[14] professional person that had to do with the
[15] hiring or — not the hiring, but the — the
[16] Civil Service process in — in getting a
[17] police officer appointed to a position of
[18] police officer based on their passing the
[19] qualifying exams, that at least I could talk
[20] to somebody in that regard because of what
[21] was going on in Ocean Beach.
[22] Q: Are you done?
[23] A: So that's what I felt. I felt
[24] that — I had no — I didn't know what to
[25]

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F. Fiorillo

[1] do. I was fired. Do you know what it's
[2] like being fired as a police officer?
[3] **MR. GOODSTADT:** Frank, just
[4] answer the question.
[5] **THE WITNESS:** No. But I'm
[6] upset.
[7] **MR. GOODSTADT:** I understand.
[8] Just answer the question.
[9] **MR. NOVIKOFF:** Thank you
[10] because I'm going to move to strike. I
[11] don't think you answered the question.
[12] **Q:** Sir, you say you and your other
[13] two Plaintiffs who met with Ms. Sanchez that
[14] day asked to be — the conversation to be
[15] confidential, right?
[16] **A:** Yes.
[17] **Q:** And you're saying that
[18] Ms. Sanchez said yes, it would be
[19] confidential, right?
[20] **A:** Yes, she did.
[21] **Q:** And you knew prior to that
[22] conversation that Ms. Sanchez, according to
[23] George Hesse, had had sex with him, right?
[24] **A:** I knew that he had sex with her?

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F. Fiorillo

[1] **Q:** According to George Hesse?
[2] **A:** According to what he said.
[3] **Q:** That's right. That's all I'm
[4] asking. I'm not saying that you witnessed
[5] it. I'm not saying whether it happened or
[6] not. But George Hesse had bragged,
[7] according to you, that he had had sex with
[8] Alison Sanchez?
[9] **A:** Yes.
[10] **Q:** So my question is, sir,
[11] notwithstanding your knowledge that George
[12] Hesse had bragged about having an intimate
[13] sexual relationship with Alison Chester, you
[14] nevertheless trusted her to keep whatever
[15] you said confidential?
[16] **MR. GOODSTADT:** Objection.
[17] He's already answered that question.
[18] **Q:** Yes or no, did you trust her?
[19] **MR. GOODSTADT:** Objection. You
[20] answered the question.
[21] **A:** Did I trust her?
[22] **Q:** Yes.
[23] **A:** Absolutely.
[24] **Q:** Okay. And you had no concern
[25]

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F. Fiorillo

[1] whatsoever during this meeting that what you
[2] would have said to her, wasn't going to
[3] immediately go back to George Hesse?
[4] **A:** Not for one minute.
[5] **Q:** Not for — not for one second?
[6] **A:** Why would I think — I would
[7] think that she would be professional enough
[8] to keep her word and not — what's so funny?
[9] **Q:** I'm sorry. Can you answer my
[10] question? I don't think anyone's laughing,
[11] but go ahead.
[12] **MR. GOODSTADT:** Yes.
[13] Ms. Sanchez — Ms. Zwilling was
[14] laughing.
[15] **MS. ZWILLING:** No, I wasn't. I
[16] would have to disagree with you. I
[17] haven't spoken to your client, so I
[18] don't know why he has to —
[19] **MR. NOVIKOFF:** I didn't hear
[20] anything.
[21] **MR. GOODSTADT:** You don't have
[22] a microphone.
[23] **A:** Excuse me, sir. I need for you
[24] to repeat the question.
[25]

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F. Fiorillo

[1] **Q:** It's okay. Now did Ms. Sanchez,
[2] in your opinion, breach that
[3] confidentiality?
[4] **A:** In my opinion?
[5] **Q:** Yeah.
[6] **A:** Yes.
[7] **Q:** Did she tell Mr. Hesse about the
[8] conversation that you had with her on a few
[9] days after April 2?
[10] **A:** Did she tell Mr. Hesse?
[11] **Q:** Yeah. That's what I'm asking
[12] you.
[13] **A:** As far as I know.
[14] **Q:** Okay. What's the basis for your
[15] knowledge?
[16] **A:** Um, it was — it was relayed to
[17] me through I want to say Tommy Snyder
[18] that — it was either Tommy Snyder or Eddie
[19] Carter, I'm not quite sure which one, but
[20] one of those two, it was relayed back to us
[21] that — because Eddie and Tommy talked to
[22] George Hesse after we were fired, and
[23] through one of them, he stated that Hesse
[24] stated that Alison Sanchez called him after
[25]

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F. Fiorillo

[1]
[2] Kevin, Joe and myself went to Civil Service.
[3] **Q:** Okay. So if I understand your
[4] testimony correctly, you have no direct
[5] knowledge of whether or not Sanchez ever
[6] called Hesse to discuss the meeting that you
[7] had with him?
[8] **MR. GOODSTADT:** Objection.
[9] **A:** No.
[10] **Q:** And, in fact, the only knowledge
[11] that you have is based upon the word of two
[12] other Plaintiffs — one or two of the other
[13] Plaintiffs in this action, correct?
[14] **MR. GOODSTADT:** Objection.
[15] **A:** Well, it could have been the word
[16] of three others.
[17] **Q:** Okay.
[18] **A:** Hesse was the third.
[19] **Q:** But you didn't talk to Hesse
[20] about this?
[21] **A:** No. But he talked to —
[22] **Q:** My question to you is, who do
[23] you — what is the basis of your knowledge,
[24] correct? And you said it was either — it
[25] was either Snyder or Carter told me —

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F. Fiorillo

[1]
[2] **A:** Who talked to Hesse.
[3] **Q:** Who talked to Hesse?
[4] **A:** Correct.
[5] **Q:** You never talked to Hesse about
[6] this?
[7] **A:** (Indicating).
[8] **Q:** So the only knowledge that you
[9] can base the allegation that Sanchez
[10] breached the confidentiality, is based upon
[11] the word of either one or two of the
[12] Plaintiffs in this action, correct?
[13] **MR. GOODSTADT:** Objection.
[14] **A:** Yes.
[15] **Q:** Okay. Now did Snyder tell you
[16] what Hesse said to — let's assume it's
[17] Snyder. Well, you know what, let's not
[18] assume it's Snyder. Did either Snyder or
[19] Carter tell you specifically what Sanchez
[20] said to Hesse about your meeting?
[21] **A:** What — what Hesse said to
[22] either Snyder or Carter about the meeting?
[23] **Q:** No.
[24] **A:** About what Sanchez said to Hesse?
[25] **Q:** Yes.

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F. Fiorillo

[1]
[2] **A:** That we went to Civil Service
[3] and, um, he called us rats for going to
[4] Civil Service.
[5] **MO MR. NOVIKOFF:** Okay. I'm going
[6] to move to strike.
[7] **Q:** I'm not asking you about what
[8] Hesse said about what you guys did. My
[9] question is more specific. Did either
[10] Carter or Snyder tell you specifically what
[11] Hesse said Sanchez said to Hesse about what
[12] went on during that meeting?
[13] **A:** No.
[14] **Q:** Okay. So for all you know,
[15] Sanchez —
[16] **A:** Other than the fact that she said
[17] that we went to Civil Service.
[18] **Q:** Right. So all you know, the
[19] conversation between Sanchez and Hesse could
[20] have been that Sanchez said "by the way,
[21] three of the officers came to see me, but I
[22] can't tell you what they said because it's
[23] confidential."
[24] **MR. GOODSTADT:** Objection.
[25] **Q:** Right?

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F. Fiorillo

[1]
[2] **A:** I don't know.
[3] **Q:** Right. You don't — exactly.
[4] You don't know what Sanchez said, do you?
[5] **A:** No. I wasn't there.
[6] **Q:** In paragraph 100, you allege that
[7] you disclosed your decision to Sanchez to
[8] seek recourse for Hesse and the OBPD's
[9] unlawful termination, do you see that?
[10] **A:** Yes.
[11] **Q:** Okay. What specifically did you
[12] advise Sanchez in this meeting with regard
[13] to what I just read?
[14] **A:** I don't understand this.
[15] **MR. GOODSTADT:** I don't think
[16] that that refers to Fiorillo.
[17] **MR. NOVIKOFF:** Well, if it
[18] doesn't, then like other witnesses, he
[19] can tell me if this aspect of the
[20] allegation doesn't refer to him.
[21] **MR. GOODSTADT:** I think it
[22] says, if you read the whole paragraph,
[23] it says "particularly because Officer
[24] Nofi was a full-time employee of
[25] Suffolk County, disclosure of his

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F. Fiorillo

[1] decision to seek recourse."
[2] **MR. NOVIKOFF:** Well, I didn't
[3] really understand the allegation.
[4] **A:** That's why I didn't understand
[5] that.
[6] **Q:** Then I'll ask you a more pointed
[7] question in regard to this. Did you ever
[8] advise — did you personally, Mr. Fiorillo,
[9] not Nofi and Lamm, did you ever advise
[10] Sanchez during this meeting that you had
[11] made a decision to seek recourse against
[12] Hesse and the Ocean Beach Police Department?
[13] **A:** Well, I asked her what we
[14] could — what we could do through Civil
[15] Service is what I did.
[16] **Q:** I'm not there yet. We'll get
[17] there after we change the tape. My question
[18] to you is, at any point in time in this
[19] meeting with Sanchez, did you tell Sanchez
[20] that you had already made a decision to seek
[21] recourse against Hesse and the Ocean Beach
[22] Police Department?
[23] **A:** Well, I — I — what I said was
[24] that I wasn't happy with the — the decision
[25]

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F. Fiorillo

[1] that she was telling me and I'm going to
[2] pursue it further.
[3] **Q:** Oh, okay. So you did tell her
[4] you were going to pursue it further?
[5] **A:** Yes.
[6] **Q:** Okay. And this was a few days
[7] after the — the meeting — I'm sorry,
[8] after the decision not to hire you, right?
[9] **A:** Right.
[10] **Q:** So I'm clear, a few days after
[11] the decision was made not to rehire you at
[12] Ocean Beach — and I know you say
[13] "terminate" — you had already decided that
[14] you were going to take it further?
[15] **A:** Right.
[16] **Q:** Okay. What was the next step
[17] that you engaged in to take it further after
[18] this meeting?
[19] **A:** Well, I didn't immediately the
[20] next day —
[21] **Q:** I'm not asking you —
[22] **A:** — take any action.
[23] **Q:** Hold on. I'm not asking you what
[24] you did the next day. I'm just asking you
[25]

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F. Fiorillo

[1] what was your next step? Could have been a
[2] day later, it could have been a week later,
[3] it could have been a month later. I don't
[4] care. What I'm asking you is, what was the
[5] next step that you engaged in to take it
[6] further?
[7] **MR. GOODSTADT:** You mean after
[8] he left the meeting with Ms. Sanchez?
[9] **MR. NOVIKOFF:** After he left
[10] the meeting, yeah.
[11] **A:** Like I said, that — I didn't do
[12] anything that particular day.
[13] **Q:** I understand.
[14] **A:** Actually, I didn't know what the
[15] next step was going to be because I was
[16] never in a position like this before, so.
[17] **Q:** Okay.
[18] **A:** Time went by, because what I did
[19] was I applied with other police departments,
[20] okay? So maybe, um, April, May, June —
[21] maybe two months went by, not quite two
[22] months, and then I was getting exhausted
[23] because things were not going — were — I
[24] was applying to every police department that
[25]

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F. Fiorillo

[1] was — was hiring in Suffolk County, every
[2] village or, you know, town police
[3] department, and I wasn't get — getting a
[4] job or I don't know. It just seemed to me
[5] like something was wrong.
[6] **MR. NOVIKOFF:** Okay. I'm
[7] going to move to strike because you
[8] didn't tell me what your next step was
[9] to take it further.
[10] **Q:** My question to you is, what was
[11] the next step to take it further with regard
[12] to the decision to seek recourse against
[13] Hesse and Ocean Beach Police Department?
[14] **A:** Okay. What I did was I tried to
[15] obtain employment as a police officer within
[16] the next I would say maybe two months after
[17] I was fired.
[18] **Q:** Okay.
[19] **A:** And then time was running out
[20] because they wouldn't hire maybe after a
[21] certain point for — to start in their
[22] department, um, you know, part time. In
[23] other words, if we had advanced notice that
[24] we were going to be fired on April 2, I
[25]

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F. Fiorillo

[1]
[2] could have at least applied earlier and got
[3] my name in the system to obtain a job as a
[4] police officer, instead of doing it this
[5] way.
[6] **MO MR. NOVIKOFF:** I'm going to
[7] move to strike. You didn't answer my
[8] question, but we're going to change the
[9] tape and then I'm going to ask you it
[10] again.
[11] **THE VIDEOGRAPHER:** This ends
[12] tape number one. The time is 11:18
[13] a.m. We're going off the record.
[14] (A break was taken.)
[15] **THE VIDEOGRAPHER:** This begins
[16] tape number two. The time is 11:24
[17] a.m. Back on the record.
[18] **Q:** Sir, you've — you testified
[19] before the end of the first tape that you
[20] told Ms. Sanchez, because you weren't happy
[21] about what she was telling you, that you
[22] were going to take it to the next step,
[23] right?
[24] **A:** Right.
[25] **Q:** Okay. Now I'm not interested in

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F. Fiorillo

[1] what job searches you did, at least for the
[2] time being, and we'll get to that, just now
[3] with regard to the next step, what was that
[4] next step?
[5] **A:** The next step would be something
[6] that I didn't know what the next step was
[7] going to be, because she basically told me I
[8] had no next step.
[9] **Q:** I understand that, but you took a
[10] next step. At some point in time, we know
[11] you retained Mr. Goodstadt, right?
[12] **A:** Yes.
[13] **Q:** Okay.
[14] **A:** But she told me that I didn't
[15] have a leg to stand on.
[16] **Q:** Sir, sir, I understand that. But
[17] you retained Mr. Goodstadt, right?
[18] **A:** Yes.
[19] **Q:** Okay. So we have — we have the
[20] meeting with Ms. Sanchez on a few days after
[21] April 2, right, and then we know that you
[22] retained Mr. Goodstadt's law firm at some
[23] particular date, we don't know what that
[24] date is yet. So we got meeting, retain

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F. Fiorillo

[1]
[2] Goodstadt, right?
[3] **A:** Right.
[4] **Q:** After the meeting and before you
[5] retained Goodstadt, what was your next step,
[6] if any?
[7] **A:** I basically didn't have a next
[8] step at that time because she said you
[9] didn't have a leg to stand on. So I didn't
[10] know what to do.
[11] **Q:** But you took a next step?
[12] **A:** Absolutely I took a next step.
[13] **Q:** Was retaining Mr. Goodstadt the
[14] next step?
[15] **A:** Yes. Yeah. Ultimately.
[16] **Q:** No, not ultimately. We know that
[17] retaining Mr. Goodstadt was a step to
[18] seeking recourse because he filed a Notice
[19] of Claim on your behalf, right?
[20] **A:** Yes.
[21] **Q:** And you would agree with me that
[22] would be a step to taking recourse, right?
[23] **A:** Absolutely.
[24] **Q:** Okay. So we got that. Was
[25] retaining Mr. Goodstadt the next step in

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[1] seeking recourse or was there a step before
[2] that that you took?
[3] **A:** That was my next step.
[4] **Q:** Fine. Did you meet with any
[5] other attorneys prior to your first meeting
[6] or communication with Mr. Goodstadt?
[7] **A:** No.
[8] **Q:** Okay. How did you learn of
[9] Mr. Goodstadt's law firm?
[10] **A:** It came to a point in time when
[11] Eddie Carter and I were talking about what
[12] could — what would be our next step. What
[13] is — what can we do. It seems like we
[14] couldn't do anything. But then it's like it
[15] was unfair.
[16] So Eddie was describing, um, a
[17] case that had to do with, um, I think it was
[18] a male subject or a male — some person who
[19] was working for Wal-Mart on Long Island. It
[20] was something that was done unfairly to —
[21] to this person. I don't know the whole
[22] case.
[23] Anyway, Eddie was more familiar
[24] with it. So what — what he did was he

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[1]
[2] Googled I think the Wal-Mart case is what it
[3] was, something like to that effect, and he
[4] found the firm of Thompson Wigdor & Gilly.
[5] It wasn't Andrew Goodstadt.

[6] Q: I understand that. I know. I
[7] understand.

[8] A: So what I did was when Eddie told
[9] me, he said "I got — I got this firm." He
[10] said, "It's not on Long Island." I said,
[11] "Well, I don't think it's a good idea if we
[12] get a firm on Long Island," okay? Only
[13] because I just didn't — I felt very
[14] uncomfortable at this time with a lot of
[15] things, okay? As far as being fired on Long
[16] Island and other things that were going on.
[17] So what I did was I initially made the phone
[18] call.

[19] Q: To — to the Thompson Wigdor law
[20] firm?

[21] A: Yeah. But it wasn't here.

[22] Q: Where was it?

[23] A: It was in the Empire State
[24] Building.

[25] Q: Okay. The same law firm, but a

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[1] different address?
[2]

[3] A: Yes.

[4] Q: Okay. And when did you make that
[5] phone call?

[6] MR. GOODSTADT: Objection.

[7] MR. NOVIKOFF: When?

[8] MR. GOODSTADT: But when he
[9] engaged us, when he started receiving
[10] advice from us, I don't think that's
[11] relevant.

[12] MR. NOVIKOFF: Oh, I think one
[13] it's completely relevant, and two, even
[14] if it's not relevant, it's not
[15] privileged, and you can't object and
[16] instruct the witness not to answer on
[17] the grounds of relevance. I'm not
[18] asking for any communications that he
[19] had with you. I'm asking him when he
[20] first met with you. Just like you
[21] asked my clients when they met with me.

[22] MR. GOODSTADT: Well, that's
[23] different.

[24] MR. NOVIKOFF: And they
[25] answered when. I'll call Judge Boyle

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[1] up. I don't think there's any issue
[2] with me asking your client, to the
[3] extent he can recall, when he met with
[4] you the first time, especially since
[5] you put it into play in your
[6] allegation.
[7]

[8] MR. GOODSTADT: I don't think
[9] that's right.

[10] MR. NOVIKOFF: You did. But he
[11] when he first met with you and who he
[12] met with. But even putting aside the
[13] second part of that, when he first met
[14] with you is not — is not privileged.
[15] And if you want to call Judge Boyle on
[16] it, we'll call Judge Boyle on that.

[17] MR. GOODSTADT: I just instruct
[18] you not to disclose anything that was
[19] said —

[20] MR. NOVIKOFF: Absolutely.

[21] MR. GOODSTADT: — at any point
[22] in time between you and any other
[23] lawyers.

[24] Q: And just so you know, my
[25] questions, unless I specifically ask you,

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[1] which I don't think I'm going to, I don't
[2] want to know what you may have spoken to
[3] about with any lawyers at this law firm or,
[4] for that matter, any lawyers at any other
[5] law firm. So I'm going to ask you the
[6] question. When did you first have a
[7] communication with somebody from the
[8] Thompson Wigdor law firm?
[9]

[10] MR. GOODSTADT: I just want to
[11] instruct you that to the extent you can
[12] remember, only when is what he's asking
[13] you.

[14] Q: Only when. Only when.

[15] A: Okay. It was sometime after
[16] April 2 and before I would say the 4th of
[17] July.

[18] Q: Okay. Well, if I told you you
[19] filed — if I told you the Notice of Claim
[20] was filed June 30, would you agree with me
[21] that it was sometime between April 2 and
[22] June 30?

[23] A: Okay. Yes.

[24] Q: Okay. And did you review the
[25] Notice of Claim before it was filed?

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[1] **F. Fiorillo**
[2] **A:** I believe I reviewed it. I
[3] believe I reviewed it.
[4] **Q:** Okay. Between the time that you
[5] reviewed the Notice of Claim, how long prior
[6] to that time did you first have a
[7] communication with someone from the Thompson
[8] Wigdor law firm? And again, I don't want to
[9] know what that communication was, I'm just
[10] looking for a time period, whether it was
[11] days, weeks or months?
[12] **A:** I'm sorry, before —
[13] **Q:** Okay. You looked — the Notice
[14] of Claim was dated June 30?
[15] **A:** Okay.
[16] **Q:** You just testified that you
[17] believed you reviewed the Notice of Claim
[18] before it was filed with the Village, right?
[19] **A:** Correct.
[20] **Q:** Okay. How long prior to you
[21] reviewing the Notice of Claim before it was
[22] filed did you first have a communication
[23] with the Thompson Wigdor law firm?
[24] **A:** I don't remember.
[25] **Q:** Days?

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[1] **F. Fiorillo**
[2] **A:** To be honest with you, I don't
[3] know at what point in time and then at what
[4] point in time the file — the claim was
[5] filed.
[6] **Q:** Well, the claim was filed June
[7] 30.
[8] **A:** No. I know that. But I don't
[9] know how long before it started.
[10] **Q:** Days? Weeks? Really, that's all
[11] I'm asking.
[12] **A:** I don't — I don't want to guess.
[13] **Q:** Then you don't. Um, did you
[14] have — after you had a phone communication
[15] with someone at this law firm, did there
[16] come a time that you personally met with
[17] anyone at the Thompson Wigdor law firm?
[18] And, again, I don't want to know anything
[19] that was discussed at the meeting.
[20] **A:** Yes.
[21] **Q:** Okay. Between the phone call and
[22] the meeting, what period of time elapsed?
[23] **A:** To be honest with you, I can't
[24] remember that timeline. I — I just don't
[25] recall exactly the — the sequence of

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[1] **F. Fiorillo**
[2] events.
[3] **Q:** Was it the same day?
[4] **A:** I can't recall — what do you
[5] mean, the same day it was filed?
[6] **Q:** Well, no. You had a telephone
[7] conversation, right? Wait. Hold on.
[8] You — you phoned the law firm of Thompson
[9] Wigdor, right?
[10] **A:** Correct.
[11] **Q:** Okay. And you had a face-to-face
[12] meeting with someone at Thompson Wigdor,
[13] right?
[14] **A:** Yes.
[15] **Q:** Did you have that face-to-face
[16] meeting on the same day that you had the
[17] phone communication?
[18] **A:** No.
[19] **Q:** Okay. How many days or weeks
[20] transpired between the phone call and the
[21] meeting with Thompson Wigdor?
[22] **A:** I don't recall.
[23] **Q:** Okay. Did you have more than one
[24] face-to-face meeting with someone at
[25] Thompson Wigdor before June 30, 2004, which

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[1] **F. Fiorillo**
[2] is the date of the Notice of Claim?
[3] **DI MR. GOODSTADT:** Objection. I'm
[4] going to instruct him not to answer
[5] that.
[6] **MR. NOVIKOFF:** Why?
[7] **MR. GOODSTADT:** Because the
[8] amount of times he met with lawyers,
[9] how long he met with lawyers, when he
[10] met with them, that's not relevant.
[11] **MR. NOVIKOFF:** Well, your —
[12] well, you can't stop him —
[13] **MR. GOODSTADT:** I think it's
[14] privileged. I think it's —
[15] **MR. NOVIKOFF:** Are you
[16] instructing your witness not to answer?
[17] **MR. GOODSTADT:** I just did.
[18] **MR. NOVIKOFF:** Because you have
[19] alleged that your client reasonably
[20] relied on the advice of Ms. Sanchez,
[21] and this goes directly to the
[22] reasonability of their reliance and any
[23] damages that flow from there. And —
[24] **MS. ZWILLING:** I would
[25] absolutely have to agree.

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F. Fiorillo

[1] MR. GOODSTADT: I didn't think
[2] you wouldn't agree, but I'm instructing
[3] him not to answer.
[4] MR. NOVIKOFF: We will make the
[5] appropriate motion then.
[6] MR. GOODSTADT: Make the
[7] appropriate motion.
[8] MR. NOVIKOFF: That's fine.
[9] Q: In your first meeting with
[10] Thompson Wigdor, who among the other
[11] Plaintiffs met with you, if any?
[12] DI MR. GOODSTADT: Objection. I
[13] instruct you not to answer that
[14] question.
[15] MR. NOVIKOFF: On what grounds?
[16] MR. GOODSTADT: On the grounds
[17] that's privileged. It was at the
[18] meeting. You can ask him if there were
[19] any non-lawyers there who were not
[20] being represented, and the privilege
[21] is —
[22] MR. NOVIKOFF: Mr. Goodstadt, I
[23] think you've already taken positions in
[24] motions in this case that are

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F. Fiorillo

[1] fundamentally opposite to the position
[2] you're taking now. And that's fine.
[3] MR. GOODSTADT: That's not
[4] correct.
[5] MR. NOVIKOFF: I can't tell you
[6] what to do.
[7] MR. GOODSTADT: The positions I
[8] take have to do with what somebody does
[9] to prepare for a deposition. That's
[10] the position. The Case Law is clear.
[11] You can ask those questions in terms of
[12] what somebody did to prepare and
[13] refresh their recollection for a
[14] deposition.
[15] MR. NOVIKOFF: Okay. No
[16] problem. I just want to make it known
[17] you are instructing your client not to
[18] answer that question.
[19] MR. GOODSTADT: I am.
[20] MR. NOVIKOFF: I don't think
[21] there's a good faith basis to assert
[22] privilege, but I'll move on. We'll
[23] have another motion.
[24] MR. GOODSTADT: Sure.

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[1] Q: 101, you allege that "Officers
[2] Fiorillo, Nofi and Lamm then relayed the
[3] substance of their employment experience at
[4] the OBPB, including their termination
[5] without notice or cause in retaliation for
[6] complaints regarding repeated instances of
[7] obstruction of justice, abuse of power and
[8] other unlawful conduct committed by or at
[9] the direction of Hesse," do you see that?
[10] A: Yes.
[11] Q: Now I'm not going to ask you
[12] specifics yet. My question is a little bit
[13] more focused. With regard to the complaints
[14] that you allege in 101, did you make these
[15] Complaints to George Hesse?
[16] MR. GOODSTADT: Objection.
[17] Q: I'll rephrase the question. You
[18] see the word "complaints" in 101?
[19] A: This is — this is to Alison
[20] Sanchez?
[21] Q: Yes. You said —
[22] A: Okay. Okay. I want to make that
[23] clear.
[24] Q: In 101, you allege that you told

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F. Fiorillo

[1] Ms. Sanchez that you were fired in
[2] retaliation for making certain complaints,
[3] do you see that?
[4] A: Yes.
[5] Q: Okay. I read that correctly,
[6] right?
[7] A: Yes.
[8] Q: Okay. Now with regard to the
[9] complaints that you spoke of with
[10] Ms. Sanchez, prior to that day, had you made
[11] those complaints to George Hesse?
[12] A: About the uncertified officers?
[13] Q: About whatever you're referring
[14] to in 101.
[15] A: About what I complained to Alison
[16] Sanchez about?
[17] Q: Yes.
[18] A: Yeah.
[19] Q: Let me take a step back.
[20] A: Yes. The answer is yes.
[21] Q: Well, 101 — I think you may be a
[22] little confused by my question. 101, you
[23] are making the allegation that you told
[24] Alison Sanchez that you were terminated

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[1] without cause and in retaliation for making
[2] complaints regarding repeated instances of
[3] obstruction of justice, abuse of power and
[4] other unlawful conduct committed by or at
[5] the direction of Hesse, do you see that?
[6] **A:** Yes.
[7] **Q:** Now I don't want to know what the
[8] complaints are yet. We'll have plenty of
[9] time to go over that this afternoon. But
[10] with regard to the complaints that you were
[11] referring to when you spoke to Alison
[12] Sanchez and that are set forth in paragraph
[13] 101, had you raised those complaints with
[14] George Hesse prior to April 2, 2006?
[15] **A:** Yes.
[16] **Q:** Okay. Had you raised those
[17] complaints with Anthony Paradiso — I'm
[18] sorry, with Chief Paradiso prior to April 2,
[19] 2006?
[20] **A:** Yes.
[21] **Q:** Had you raised those complaints
[22] with Mayor Rogers?
[23] **A:** No.
[24] **Q:** Had you raised those complaints

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F. Fiorillo

[1] with Trustee Loeffler?
[2] **A:** Yes.
[3] **Q:** Okay. What specific complaint or
[4] complaints did you raise with Trustee
[5] Loeffler prior to April 2, 2006?
[6] **A:** That the — the complaint was
[7] that — was specific to the — to Gary
[8] Bosetti and Richard Bosetti, first of all.
[9] **Q:** I'm asking you —
[10] **A:** That was my complaint
[11] specifically about them.
[12] **Q:** Yeah. I'm asking you what this
[13] complaint was.
[14] **A:** Okay. My complaint was —
[15] **Q:** To Loeffler now.
[16] **A:** To Joe Loeffler.
[17] **Q:** Right.
[18] **A:** Exactly. Joe Loeffler, Jr.
[19] **Q:** Right.
[20] **A:** The current mayor.
[21] **Q:** Right.
[22] **A:** I com — I spoke to him and
[23] complained about Gary Bosetti and Richard
[24] Bosetti running amuck in the Village,
[25]

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F. Fiorillo

[1] constantly drinking. And he knew that
[2] because we had a conversation.
[3] **Q:** Sir, I'm just asking you about
[4] what your complaint was —
[5] **A:** That was my complaint.
[6] **MO MR. NOVIKOFF:** Okay. Motion to
[7] strike what you think Trustee Loeffler
[8] knew or not.
[9] **Q:** Okay. When did you make this
[10] complaint to Joe Loeffler about the Bosettis
[11] running amuck, constantly drinking in the
[12] Village?
[13] **A:** In I would say it was 2005.
[14] **Q:** When in 2005?
[15] **A:** Summertime.
[16] **Q:** Where did you make this
[17] Complaint?
[18] **A:** It was — he was riding his
[19] bike. He came — he was actually walking
[20] his bike to the corner of Cottage Walk and
[21] Bay Walk. He was on the — he was on
[22] the — let me see what the direction was.
[23] He was on the southeast corner by the hero
[24] shop across from the post office — the
[25]

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F. Fiorillo

[1] village offices.
[2] **Q:** And was this during the daytime?
[3] **A:** Yes.
[4] **Q:** Were you on duty?
[5] **A:** Yes.
[6] **Q:** What month?
[7] **A:** It was I would say — I would say
[8] July.
[9] **Q:** Okay. And before or after July
[10] 4th?
[11] **A:** Before or after July 4th. I'm
[12] trying to think. I think we had the parade
[13] already, so I would say the best of my
[14] recollection is after the 4th of July.
[15] **Q:** And what specifically did you say
[16] to Joe Loeffler?
[17] **A:** I said that "The Bosettis are
[18] poisoning this village."
[19] **Q:** What else did you say, because I
[20] presume you didn't just end it at "poisoning
[21] the village"?
[22] **A:** No. We were talking about Gary
[23] and Richard Bosetti.
[24] **Q:** Who started the conversation?
[25]

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[1] *F. Fiorillo*
[2] A: Um, he — well, it was like
[3] this; he was going to run for mayor.
[4] Q: No. I'm not interested —
[5] A: I'm telling how it started.
[6] Q: No. Did he start the
[7] conversation with you or did you start the
[8] conversation?
[9] A: Well, we greeted each other
[10] hello.
[11] Q: Who said the first words after
[12] "hello"?
[13] A: Um, I did.
[14] Q: Okay. What did you say to him
[15] after you both said hello?
[16] A: I said "Joe, I hear you're going
[17] to run for mayor."
[18] Q: Good. What did he say after
[19] that?
[20] A: He said he was going to run for
[21] mayor.
[22] Q: What did you say?
[23] A: And I said, "Well, when you
[24] became — when you become mayor, I hope you
[25] clean up the village."

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[1] *F. Fiorillo*
[2] Q: And did you say anything else
[3] before he responded?
[4] A: Did I say anything else?
[5] Q: Right. Did you explain why you
[6] wanted him to clean up the village before he
[7] responded?
[8] A: Yeah. In the conversation,
[9] that's what I said.
[10] Q: Fine. You said you hope he
[11] cleans up the village, and what did Loeffler
[12] say in response to you —
[13] A: Joe said when he becomes mayor,
[14] he's going to clean up the village.
[15] Q: Okay. And did you say anything
[16] else after Joe — after Joe said that?
[17] A: Yes, I did.
[18] Q: What did you say?
[19] A: I said, "Well, I hope you — you
[20] know, you take action on what's going on in
[21] this village, because it's, you know,
[22] getting — it was getting pretty bad."
[23] Q: And what did he say to that?
[24] A: And I said — well, what I said
[25] was —

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[1] *F. Fiorillo*
[2] Q: Yeah. Tell me.
[3] A: What I said was, "Gary Bosetti
[4] and Richard Bosetti are really taking this
[5] village down."
[6] Q: Okay.
[7] A: And what Joe Loeffler said was,
[8] "Well, when I become mayor, they're going to
[9] be the first two that I fire."
[10] Q: Okay. And did you tell Joe
[11] during that conversation why the Bosetti
[12] brothers were taking the village down as you
[13] say?
[14] A: No. Well, after I said that, he
[15] said, "I know because they're involved in
[16] everything here." That was his exact words.
[17] Q: They were involved in everything.
[18] Did you tell Joe Loeffler anything else
[19] about the Bosettis during that conversation
[20] that you said you complained about drinking
[21] in the village and running amuck? That's
[22] what you said. You said —
[23] A: That's exactly what I said.
[24] Q: That's what I've been asking you.
[25] When did you say that the Bosettis were

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[1] *F. Fiorillo*
[2] running amuck?
[3] A: When did I say that? In the
[4] conversation.
[5] Q: Yeah. When in the conversation?
[6] A: During the course of the
[7] conversation.
[8] Q: We've just gone through it. When
[9] did — in response to what — in response
[10] to what did you say —
[11] A: He said he was going to clean up
[12] the village.
[13] Q: And then what did you say?
[14] A: And then I said — what happened
[15] was — I said that the Bosettis were taking
[16] this village down.
[17] Q: Right.
[18] A: I said they were — actually, I
[19] said they were poisoning the village.
[20] Q: Right. Okay.
[21] A: Okay? And what he said was when
[22] he became mayor, that those were going to be
[23] the first two guys that he was going to
[24] fire.
[25] Q: Okay. When did you tell Mayor

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F. Fiorillo

[1] Loeffler that they were constantly drinking
[2] in the village?
[3] **A:** He said that he knew — he knew
[4] it, too. He — it wasn't something that he
[5] didn't know.
[6] **Q:** Sir, I'm not asking you yet what
[7] Loeffler said to you. My question to you
[8] is, you testified earlier that you
[9] complained to Joe Loeffler about the
[10] Bosettis constantly drinking in the village.
[11] Were those your words? Did you say —
[12] **A:** Yes.
[13] **Q:** Did you say to Loeffler in this
[14] conversation outdoors while you were on duty
[15] in July, after the parade, after July 4th,
[16] that the Bosettis were constantly drinking
[17] in the village?
[18] **A:** Yes.
[19] **Q:** What were your exact words?
[20] **A:** Those were my words.
[21] **Q:** Okay. And what did he say in
[22] response to that?
[23] **A:** When he becomes mayor —
[24] **Q:** Okay.

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[1] **A:** Okay, that was going to be one of
[2] the first actions he takes.
[3] **Q:** Okay.
[4] **A:** That he told me. He said, "Those
[5] are going to be the first two guys I fire."
[6] **Q:** Okay. Now let me ask you this.
[7] Was Mayor Loeffler the mayor on April 2,
[8] 2006?
[9] **A:** On April 2, 2006? No.
[10] **Q:** Um, had — do you know if Mayor
[11] Loeffler became mayor at any point in time
[12] in 2006?
[13] **A:** Yes.
[14] **Q:** All right. Do you know as of
[15] today if the Bosettis are still employed by
[16] Ocean Beach?
[17] **A:** I don't know.
[18] **MR. GOODSTADT:** Hold on. Let's
[19] take a break while Arlene's phone is
[20] ringing.
[21] **MS. ZWILLING:** Sorry about
[22] that.
[23] **Q:** You have no knowledge one way or
[24] the other as to whether Richard Bosetti is

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F. Fiorillo

[1] still employed by Ocean Beach?
[2] **MR. GOODSTADT:** Objection.
[3] **A:** I don't — I don't know how they
[4] do their employing. In other words, I don't
[5] know if they go back and — I don't know.
[6] I don't know.
[7] **Q:** You never heard of Mr. Bosetti
[8] being fired by Ocean Beach after — after
[9] April 2, 2006?
[10] **A:** I don't know what's going on in
[11] Ocean Beach right now.
[12] **Q:** You have no idea about Gary
[13] Bosetti being fired by Ocean Beach?
[14] **A:** I have no knowledge of that
[15] whatsoever.
[16] **Q:** Have you ever heard that Gary
[17] Bosetti is no —
[18] **A:** This is news to me.
[19] **Q:** So you're testifying today under
[20] oath that February 20, 2008 is the first
[21] that you have learned that Gary Bosetti is
[22] no longer employed by Ocean Beach?
[23] **MR. GOODSTADT:** Objection.
[24] **A:** Yes.

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F. Fiorillo

[1] **Q:** And were you here during the
[2] testimony of Richard Bosetti?
[3] **A:** Yes.
[4] **Q:** Do you recall Mr. Bosetti
[5] testifying that Joe Loeffler fired him after
[6] Loeffler caught him sleeping in the police
[7] station?
[8] **A:** You asked me about Gary.
[9] **Q:** I know. Now I'm asking you about
[10] Rich.
[11] **A:** Richie —
[12] **Q:** Are you — were you at the
[13] testimony of Richard Bosetti a week ago —
[14] **A:** Okay.
[15] **Q:** Wherein — yes or no, were you at
[16] the testimony of Richard Bosetti when he
[17] testified that Loeffler fired him after
[18] Loeffler saw him sleeping in the police
[19] station?
[20] **MR. GOODSTADT:** Objection.
[21] **A:** That's not true.
[22] **Q:** Were you here when Bosetti said
[23] that?
[24] **MR. GOODSTADT:** Objection.

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F. Fiorillo

[1]
[2] A: But he didn't say that.
[3] Q: What did he say?
[4] A: He said that he was sleeping in
[5] the fire hall.
[6] Q: Okay. I'm sorry. Were you here
[7] during Richard Bosetti's deposition when
[8] Richard Bosetti said that Loeffler caught
[9] him sleeping in the fire hall and fired him?
[10] A: Yes.
[11] Q: Okay. Is it your testimony that
[12] that was the first time you had ever learned
[13] that Richard Bosetti was no longer employed
[14] by the Village?
[15] A: That — that's not my testimony.
[16] Q: When did you first learn that
[17] Richard Bosetti was no longer employed by
[18] the Village?
[19] A: When Kevin Lamm got a call from
[20] John Oley at 6:00 in the morning from Ocean
[21] Beach and told Kevin — John Oley told
[22] Kevin that Richie Bosetti was fired the day
[23] after the — the George Hesse, Paul Corallo,
[24] Arnold Hardman indictment fundraiser, the
[25] next day he was fired.

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F. Fiorillo

[1] Q: Indictment fundraiser?
[2] A: Yeah. They had an indictment
[3] fundraiser.
[4] Q: Oh, for their legal fees?
[5] A: For their legal fees.
[6] Q: Oh, okay. And when was that?
[7] A: Um, I would say — I would say
[8] sometime in September of — let's see —
[9] 2007.
[10] Q: Okay. Now let's get back to your
[11] conversation with Joe Loeffler. So he said
[12] to you when he becomes mayor, he would get
[13] rid of — he would fire the Bosettis. Was
[14] that the only time that you complained to
[15] Joe Loeffler about drinking in the Village?
[16] A: No. I complained to Joe Loeffler
[17] when the Hal — there was a Halloween
[18] fight.
[19] Q: Right.
[20] A: And he was the ambulance driver.
[21] Q: Right.
[22] A: And he was at the station at the
[23] time.
[24] Q: Right.

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F. Fiorillo

[1] A: And we were going through the
[2] whole process of with the victims and the
[3] complainants and —
[4] Q: Right.
[5] A: And the whole scene. And I said,
[6] "This is a result of the Bosettis drinking."
[7] Q: Now the Bosettis were off duty at
[8] the time, right?
[9] A: What do you mean by "off duty"?
[10] Q: Well, the night of the Halloween
[11] incident, were the Bosettis on duty at the
[12] time of the fight?
[13] A: Well, at the time of the fight,
[14] they represented themselves as police
[15] officers.
[16] Q: Were they on duty?
[17] A: I don't know.
[18] Q: You don't know? You never found
[19] out? Mr. Fiorillo, you investigated the
[20] Halloween incident, correct?
[21] A: They claimed —
[22] Q: Sir, you —
[23] A: — they were off duty.
[24] Q: Sir, you investigated the

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F. Fiorillo

[1] Halloween incident, didn't you?
[2] A: Yes.
[3] Q: Did you ever inquire with regard
[4] to whether the Bosettis were on duty that
[5] night?
[6] A: In my opinion, they were off
[7] duty. They weren't working with us.
[8] Q: Fine. So when I asked you the
[9] question —
[10] A: But there's a reason why I
[11] answered that question that way.
[12] Q: I'm sure there is a reason,
[13] Mr. Fiorillo. And Mr. Loeffler wasn't just
[14] hanging out in the police station that
[15] night, right?
[16] A: Well, he —
[17] Q: Right? He wasn't just hanging
[18] out, he had a job that night, correct?
[19] A: Yeah. But he was —
[20] Q: He was with —
[21] A: — hanging out. He was waiting.
[22] Q: He was with the ambulance?
[23] A: Yeah. But he wasn't doing
[24] anything. He was basically hanging out.

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F. Fiorillo

- [1]
[2] **Q:** Sir —
[3] **A:** I mean, he was doing his job.
[4] **Q:** Sir, was Mr. Loeffler at the
[5] police station before the ambulance arrived?
[6] **A:** No.
[7] **Q:** Okay. And Mr. Loeffler was part
[8] of the ambulance crew that night, correct?
[9] **A:** He was the driver.
[10] **Q:** Right. And when the ambulance
[11] left, so did Mr. Loeffler, right?
[12] **A:** Correct.
[13] **Q:** Given that he was the driver.
[14] Okay. So you had told Mr. Loeffler the
[15] night of the Halloween incident that this is
[16] the result of the Bosettis drinking, right?
[17] You had this so called conversation with
[18] Mr. Loeffler in July of 2005 when you said
[19] the Bosettis are constantly drinking in the
[20] Village, correct?
[21] **A:** Which he knew.
[22] **Q:** Fine. You had that conversation,
[23] correct?
[24] **A:** Yes.
[25] **Q:** Okay. Were there any other times

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F. Fiorillo

- [1] that you complained to Joe Loeffler about
[2] drinking in the Village?
[3] **A:** No.
[4] **Q:** Okay. Were there any other times
[5] that you made any complaints to Joe
[6] Loeffler, other than what you've just
[7] testified to, with regard to what you stated
[8] to Ms. Sanchez during that April meeting
[9] with her?
[10] **A:** I don't —
[11] **MR. GOODSTADT:** Just so we're
[12] clear, you're asking whether he
[13] complained to Loeffler about anything
[14] that he said?
[15] **MR. NOVIKOFF:** Right.
[16] **Q:** We started out this whole line of
[17] questioning with what you said to Sanchez in
[18] that meeting. You generally said to her
[19] that you were being fired for — in
[20] retaliation for making certain complaints,
[21] right, concerning —
[22] **A:** What I said —
[23] **Q:** Excuse me.
[24] **A:** Sure.

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F. Fiorillo

- [1]
[2] **Q:** Concerning obstruction of
[3] justice, abuse of power and other unlawful
[4] conduct, right?
[5] **A:** Now you — I was complaining to
[6] Alison Sanchez at this point.
[7] **Q:** Yes.
[8] **A:** Okay. Yes.
[9] **Q:** And then I asked you a series of
[10] questions, Mr. Fiorillo. I said with regard
[11] to what you believe was complaints that
[12] formed the basis of the retaliatory action,
[13] did you complain to George Hesse, and you —
[14] **A:** Yes.
[15] **Q:** — said yes. I asked you if you
[16] complained to Paridiso. You said yes.
[17] **A:** Yes.
[18] **Q:** Then I asked you if you
[19] complained to Loeffler, and you gave me two
[20] instances.
[21] **A:** Right.
[22] **Q:** With regard to any of the
[23] complaints that you repeatedly made that
[24] formed your belief that you were retaliated
[25] against, did you make any complaints to Joe

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F. Fiorillo

- [1] Loeffler?
[2] **A:** Any other than the two mentioned?
[3] **Q:** Right.
[4] **A:** No.
[5] **Q:** Okay. And you're certain of
[6] that?
[7] **A:** Yeah. I don't believe I ever
[8] spoke to Joe Loeffler after that.
[9] **Q:** I'm talking about before. At any
[10] time. You started working there in 2002,
[11] right?
[12] **A:** Yeah, but it wasn't —
[13] **Q:** Sir —
[14] **A:** Yes. Yes.
[15] **Q:** In 2002, did you ever make a
[16] Complaint to Trustee Loeffler?
[17] **A:** No.
[18] **Q:** In 2003, did you ever make a
[19] Complaint to Trustee Loeffler?
[20] **A:** No.
[21] **Q:** In 2004, did you ever make a
[22] Complaint to Trustee Loeffler?
[23] **MR. GOODSTADT:** Other than the
[24] ones he already testified to?
[25]

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[1] *F. Fiorillo*

[2] A: Yes. Yes. Yes.

[3] Q: Well, yes. Other than the

[4] Halloween incident.

[5] A: That's 2004.

[6] Q: Right. So other than the

[7] Halloween incident, did you make any other

[8] complaints to Trustee Loeffler?

[9] A: In 2004?

[10] Q: Right.

[11] A: No.

[12] Q: In 2005, other than this one time

[13] you spoke about in July, did you make any

[14] other complaints to Trustee Loeffler?

[15] A: No.

[16] Q: 2006, did you —

[17] A: No.

[18] Q: Okay. So you — is it your

[19] opinion that the Bosettis drinking in the

[20] Village created a public safety hazard?

[21] A: Absolutely.

[22] Q: And when did you first form this

[23] belief?

[24] A: Well, you can't — you can't keep

[25] on going out drinking when — after —

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[1] *F. Fiorillo*

[2] Q: Sir —

[3] A: Well, I'm going to explain — I'm

[4] going to answer the question.

[5] Q: Sir, right now I don't care about

[6] why you think that. I'm asking you, you

[7] stated that you formed the belief that the

[8] Bosettis drinking in the Village created a

[9] public safety issue, right?

[10] A: Yes.

[11] Q: When did you first form that

[12] belief?

[13] A: It — it — well, let's see,

[14] after I started working there in 2002.

[15] Q: When in 2002 did you first form

[16] that belief?

[17] A: When I first started to get to

[18] know both Richie and Gary and their

[19] behavior.

[20] Q: So you formed this belief in

[21] 2002?

[22] A: Yes. And it strengthened then as

[23] the years went by.

[24] Q: And we're going to get to that

[25] right now. So in 2002, you formed the

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[1] *F. Fiorillo*

[2] belief that the drinking by the Bosettis

[3] were creating a public safety issue, right?

[4] A: Yes.

[5] Q: And did you complain to Hesse in

[6] 2002?

[7] A: No, not in 2002.

[8] Q: Okay. Did you complain to

[9] Paridiso in 2002?

[10] A: Not in 2002.

[11] Q: Did you — did you write any

[12] letters to the Suffolk County DA?

[13] A: No.

[14] Q: Did you complain to the DA in

[15] 2002?

[16] A: Why would I complain to the DA?

[17] Q: Sir, my question is not why you

[18] would or why you wouldn't. In 2002, when

[19] you first formed the belief that the

[20] drinking by the Bosettis created a public

[21] safety issue, did you complain to the

[22] Suffolk County District Attorney's office?

[23] A: No.

[24] Q: Did you complain to any police

[25] department on Long Island?

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[1] *F. Fiorillo*

[2] A: Well, indirectly.

[3] Q: No. Directly. You, making a

[4] complaint.

[5] A: When you say "any police

[6] department" —

[7] Q: Other than Ocean Beach — well,

[8] you didn't make a complaint to Hesse and you

[9] didn't make a complaint to Paridiso. So

[10] other than Ocean Beach, did you make a

[11] complaint to any other police department in

[12] Long Island concerning the Bosettis drinking

[13] in 2002 and your belief that their drinking

[14] created a public safety issue?

[15] A: Yes.

[16] Q: To whom?

[17] A: Suffolk County Police.

[18] Q: Which person?

[19] A: Mike Santarpia.

[20] Q: And who is Michael Santarpia?

[21] A: He's an academy instructor at the

[22] Suffolk County Police Academy.

[23] Q: And what did you say to Michael

[24] Santarpia?

[25] A: I said that, "I can't believe the

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[1] **F. Fiorillo**
[2] department that I'm in and what's going on,
[3] because what you taught me is absolutely not
[4] what — what is happening in this police
[5] department."
[6] **Q:** And what was Mr. Santarpia's
[7] position at the time?
[8] **A:** He was an academy instructor.
[9] **Q:** Was he a captain in the police
[10] department, in any police department?
[11] **A:** He was the academy instructor for
[12] the Suffolk County Police.
[13] **Q:** Was he in charge of any type of
[14] precinct in Suffolk County?
[15] **A:** No.
[16] **Q:** Okay. And why did you complain
[17] to Mr. Santarpia?
[18] **A:** Because I had a rapport with
[19] Mr. Santarpia going through the academy.
[20] **Q:** And you complained to him that
[21] the Bosettis were drinking and creating a
[22] public safety issue?
[23] **A:** Yes.
[24] **Q:** Okay. And what did Mr. Santarpia
[25] say he was going to do? Anything?

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[1] **F. Fiorillo**
[2] **A:** Um, he — he didn't say he was
[3] going to do anything in particular.
[4] **Q:** That's my question.
[5] **A:** No.
[6] **Q:** Did you ask him to do anything in
[7] particular?
[8] **A:** No. But he just —
[9] **Q:** My question to you, sir, is did
[10] you ask him to do anything in particular?
[11] **A:** No.
[12] **Q:** Other than to Mr. Santarpia, did
[13] you complain to any other police department
[14] in Long Island in 2002 about your belief
[15] that the Bosettis drinking created a public
[16] safety issue?
[17] **A:** Now when you say police
[18] department or police officer in another
[19] department —
[20] **Q:** Police department.
[21] **A:** Okay. No.
[22] **Q:** Okay. Who else did you complain
[23] to in 2002 that was part of the police — a
[24] police department on Long Island?
[25] **A:** Jane Harrigan.

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[1] **F. Fiorillo**
[2] **Q:** Spell it, please.
[3] **A:** H-A-R-R-I-G-A-N.
[4] **Q:** And what did you say to
[5] Mr. Harrigan?
[6] **A:** Ms.
[7] **Q:** Ms. Harrigan?
[8] **A:** Jane. Jane.
[9] **Q:** What did you say to her?
[10] **A:** I explained to her that Ocean
[11] Beach hired retired city cops that just
[12] didn't conform with what we were taught in
[13] the academy.
[14] **Q:** Okay. And did you complain to
[15] any other police officer outside of Ocean
[16] Beach in 2002?
[17] **A:** Not that I can recall at this
[18] time.
[19] **Q:** Did you communicate with anyone
[20] from the Suffolk County District Attorney's
[21] office with regard to your belief in 2002
[22] that we've been discussing?
[23] **A:** No.
[24] **Q:** Did you communicate with anyone
[25] from Newsday in 2002 with regard to your

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[1] **F. Fiorillo**
[2] belief that we've been discussing?
[3] **A:** No.
[4] **Q:** Did you communicate with any
[5] other — with any media outlet with regard
[6] to the belief that you formed in 2002 that
[7] we've been discussing?
[8] **A:** No.
[9] **Q:** And you understand what I mean by
[10] "media outlet," correct?
[11] **A:** Yes.
[12] **Q:** What do you — what's your
[13] understanding, just so we're clear?
[14] **A:** The press.
[15] **Q:** Correct. Radio? TV?
[16] **A:** Yeah.
[17] **Q:** Did you — did you create any
[18] blog in 2002?
[19] **A:** No.
[20] **Q:** Did you post any blog in 2002
[21] that reflected your belief that we've been
[22] talking about?
[23] **A:** No.
[24] **Q:** Okay. Did you attend any board
[25] meeting in 2000 — of the Village in 2002?

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[1] *F. Fiorillo*

[2] A: No.

[3] Q: Did you attend any Suffolk County

[4] Legislative meeting in 2002?

[5] A: No.

[6] Q: Did you make any type of public

[7] statement in 2002 concerning your belief

[8] that we've been talking about?

[9] A: No.

[10] MR. GOODSTADT: Objection.

[11] What do you mean by "public statement"?

[12] He already testified to two people he's

[13] spoken to.

[14] Q: Other than the two people that

[15] you've spoken to?

[16] A: I don't believe so.

[17] Q: Okay. How about 2003, did you

[18] complain to George Hesse about the Bosettis

[19] drinking in 2003?

[20] A: Yes.

[21] Q: Did you complain to Paridiso in

[22] 2003 about the Bosettis drinking?

[23] A: It was an ongoing thing.

[24] Q: I'm asking —

[25] A: Yes.

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[1] *F. Fiorillo*

[2] Q: What did Paridiso say?

[3] A: That he would address it.

[4] Q: Did he?

[5] A: He tried to.

[6] Q: Was he successful?

[7] A: No.

[8] Q: When you say "he tried to," what

[9] did he do?

[10] A: He posted a note saying that

[11] the — that officers were supposed to leave

[12] their — get out of Ocean Beach after their

[13] tours instead of frequenting the bars.

[14] Q: Okay. So when you were

[15] complaining about the Bosettis drinking, it

[16] would include the time that they were

[17] drinking while they were off duty, correct?

[18] A: Well —

[19] Q: It may — I'm not suggesting that

[20] it didn't also include when they were on

[21] duty.

[22] A: Yes.

[23] Q: I'm just saying, for the purpose

[24] of my question, when you started complaining

[25] about the Bosettis drinking in the village,

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[1] *F. Fiorillo*

[2] it would include those occasions when they

[3] were off duty as well, right?

[4] A: Only because of —

[5] Q: I just need a —

[6] A: Well, yes. It encompassed that

[7] also.

[8] Q: Right. Okay. And in 2003, did

[9] you complain to Mayor Rogers?

[10] A: No.

[11] Q: And you still had the belief that

[12] the drinking of the Bosettis created a

[13] public safety hazard?

[14] A: Absolutely.

[15] Q: And did you complain to Trustee

[16] Loeffler?

[17] A: Not in 2003.

[18] Q: Did you complain to any media

[19] outlet?

[20] A: No.

[21] Q: Did you communicate with the

[22] Suffolk County District Attorney's office?

[23] A: No.

[24] Q: Did you speak about your opinion

[25] that we've been discussing in 2003 with any

Page 118

[1] *F. Fiorillo*

[2] police department or police officer from any

[3] police department outside of Ocean Beach?

[4] A: No.

[5] Q: Did you attend any Village of

[6] Ocean Beach board meetings?

[7] A: No.

[8] Q: Did you attend any Suffolk County

[9] Legislative meetings?

[10] A: No.

[11] Q: Did you do anything beyond

[12] speaking to Hesse and Paridiso in 2003 with

[13] regard to your opinion that the Bosettis

[14] drinking created a public safety issue?

[15] A: Did I do anything?

[16] Q: Yeah. Other than what you said

[17] you did with Hesse and Paridiso?

[18] A: I didn't do anything.

[19] Q: Right. Let me make it clear.

[20] A: I mean, they —

[21] Q: Other than complaining to Hesse

[22] and Paridiso in 2003, did you do anything

[23] else with regard to advising anyone in the

[24] entire world that, in your belief, the

[25] Bosettis drinking created a public safety

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[1] *F. Fiorillo*
[2] problem?
[3] **MR. GOODSTADT:** Including other
[4] police officers in Ocean Beach Police
[5] Department?
[6] **MR. NOVIKOFF:** Excluding that.
[7] **MR. GOODSTADT:** Okay.
[8] **A:** I didn't do anything.
[9] **Q:** Right. 2004, did you complain to
[10] Hesse about the Bosettis drinking?
[11] **A:** Yes.
[12] **Q:** And did you complain to Paridiso?
[13] **A:** Yes.
[14] **Q:** And what did Paridiso say to you?
[15] **A:** That he was going to address it.
[16] **Q:** Even though he tried to address
[17] it in 2003?
[18] **A:** Exactly.
[19] **Q:** What did he say specifically?
[20] **A:** That he was going to talk to them
[21] about — because it all — it revolved
[22] around the Halloween incident.
[23] **Q:** Okay. Did you complain to
[24] Paridiso before the Halloween incident about
[25] the Bosettis drinking?

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[1] *F. Fiorillo*
[2] **A:** Yes.
[3] **Q:** And what did he say to you before
[4] the Halloween incident?
[5] **A:** He was going to talk to them
[6] about it then also.
[7] **Q:** Okay. And did he?
[8] **A:** I don't know. I wasn't there.
[9] **Q:** Okay. So would you agree with me
[10] that notwithstanding your complaints in
[11] 2002, 2003 and 2004, prior to the Halloween
[12] incident, there was nothing that was done
[13] to, in your opinion, lessen the public
[14] safety issue that revolved around the
[15] Bosettis drinking?
[16] **A:** In my opinion, Hesse didn't do
[17] anything about it and Paridiso didn't do
[18] anything about it.
[19] **Q:** Right.
[20] **A:** That's my opinion.
[21] **Q:** And in 2004, you believe the
[22] public safety issue with regard to the
[23] drinking by the Bosettis was stronger than
[24] it was in 2002, right?
[25] **A:** I believe so.

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[1] *F. Fiorillo*
[2] **Q:** You believed it was getting
[3] worse?
[4] **A:** I definitely do. That's my
[5] opinion.
[6] **Q:** And that's all I'm asking you.
[7] And you believe that, in fact, between 2002
[8] and 2004, the public's safety was even more
[9] at risk?
[10] **A:** I believe so.
[11] **Q:** In 2004, right?
[12] **A:** Well, apparently —
[13] **Q:** Than it was in 2002?
[14] **A:** It was pretty apparent.
[15] **Q:** Yes or no?
[16] **A:** Yes.
[17] **Q:** Okay. And in 2004, did you
[18] complain to the board of trustees of the
[19] Village?
[20] **A:** In 2004?
[21] **Q:** Yeah.
[22] **MR. GOODSTADT:** Other than for
[23] Loeffler, who was a trustee at the
[24] time?
[25] **Q:** Other than — other than for what

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[1] *F. Fiorillo*
[2] you said —
[3] **A:** I spoke to him.
[4] **Q:** Hold on. Other than for what you
[5] said — withdrawn. Other than for what you
[6] testified that you said to Loeffler the
[7] night of the Halloween incident, did you
[8] ever complain to any other trustee in 2004
[9] about the public safety issue that we've
[10] been discussing?
[11] **A:** I don't believe so.
[12] **Q:** Did you ever complain to Mayor
[13] Rogers —
[14] **A:** No.
[15] **Q:** — in 2004? Did you ever attend
[16] a Village board meeting?
[17] **A:** No.
[18] **Q:** Did you ever communicate with the
[19] Suffolk County District Attorney's office
[20] concerning your belief as to the public
[21] safety issue?
[22] **A:** No.
[23] **Q:** Did you ever communicate to any
[24] media outlet with regard to your opinion?
[25] **A:** No.

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F. Fiorillo

[1] Q: No?
[2] A: No.
[3] MR. GOODSTADT: You're still
[4] talking about '04?
[5] MR. NOVIKOFF: '04. Only in
[6] '04.
[7] A: No.
[8] Q: Did you complain to any other
[9] police department in Long Island?
[10] A: No.
[11] Q: So, again, let me understand then
[12] your testimony correctly. Other than —
[13] well, withdrawn. In 2004, you — you
[14] believed that there was a public safety
[15] issue concerning the Bosettis drinking in
[16] the Village, correct?
[17] A: I'm sorry.
[18] Q: In 2004 —
[19] A: In 2004, yes.
[20] Q: And notwithstanding this belief,
[21] the only communications that you had on this
[22] matter were with Hesse, Paridiso and the one
[23] time with Loeffler on Halloween night?
[24] A: In 2004.
[25]

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F. Fiorillo

[1] Q: Right.
[2] A: Yes.
[3] Q: Yes. Okay. Now —
[4] MR. GOODSTADT: And you're
[5] excluding other officers in the Ocean
[6] Beach Police Department?
[7] MR. NOVIKOFF: Yes. I'm
[8] excluding other officers.
[9] Q: The only superiors you had at the
[10] Ocean Beach Police Department were Hesse and
[11] Paridiso, right?
[12] A: Well, if they weren't working,
[13] then it would be the senior officer over me
[14] who had the most experience.
[15] Q: But on — as for the full-time
[16] officers —
[17] A: There was only two at the time.
[18] Q: Hesse and Paridiso?
[19] A: Correct.
[20] Q: Okay. And how — let's go to
[21] 2005 with regard to the Bosettis drinking.
[22] Did you complain to Hesse about the Bosettis
[23] drinking in 2005?
[24] A: Not in 2005.
[25]

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F. Fiorillo

[1] Q: No? Why not?
[2] A: Because what was going on — the
[3] department was starting to fragment in I
[4] would say after — after the Halloween
[5] incident. So, um, to be honest with you, we
[6] were — we were — "we" meaning myself,
[7] Kevin Lamm, and Tommy Snyder — were being,
[8] um, let's see. We were being alienated
[9] so — so to speak.
[10] Q: Okay. By whom were you being
[11] alienated?
[12] A: Richard Bosetti, Gary Bosetti,
[13] George Hesse.
[14] Q: How were the Bosettis alienating
[15] you?
[16] A: And, also, there was another —
[17] Pat — Pat Cherry also.
[18] Q: How were the Bosettis alienating
[19] you?
[20] A: Well, when — if I came on duty
[21] and I was relieving one of them, they
[22] wouldn't talk to you. They wouldn't let you
[23] know what's going on in the Village. They
[24] would actually be in their car at the relief
[25]

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F. Fiorillo

[1] point, and the radio and the phone would be
[2] in the police vehicle, and as soon as they'd
[3] seen me drive up, they would go.
[4] Q: How was Cherry alienating you?
[5] A: He wouldn't talk to me because of
[6] the Halloween incident.
[7] MR. NOVIKOFF: Move to strike.
[8] Q: I'm just asking you how did
[9] Cherry alienate you. I'm not asking why you
[10] think he was alienating you. I'm just
[11] asking how did he alienate you.
[12] MR. GOODSTADT: He answered the
[13] question. You made your motion. Let's
[14] move on.
[15] Q: How did — how did he alienate
[16] you?
[17] A: Well, that was part of the
[18] alienation. I mean, he wouldn't speak to
[19] me.
[20] Q: He wouldn't speak to you?
[21] A: Yeah.
[22] Q: Is that it?
[23] A: Well, yeah.
[24] Q: Okay. How did Hesse alienate you
[25]

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F. Fiorillo

[1]
[2] in 2005?
[3] **A:** Hesse was very — he was keeping
[4] me out of the loop on — basically the
[5] Halloween incident was paramount at this
[6] time between the — between like Halloween
[7] of 2004 all the way through 2005, and until
[8] the day I was fired actually.
[9] **MO MR. NOVIKOFF:** Okay. Move to
[10] strike.
[11] **Q:** How did Hesse alienate you —
[12] **A:** Didn't I answer the question?
[13] **MR. GOODSTADT:** You did.
[14] **Q:** How? How? Not why. Not why you
[15] think he did. How? How did Hesse alienate
[16] you in 2005?
[17] **MR. GOODSTADT:** He just
[18] answered the question, but he can
[19] answer it again.
[20] **Q:** That's fine. How did Hesse
[21] alienate you? What did he do or didn't do?
[22] **A:** He kept me out of the loop of —
[23] okay. Let's say there was a Christmas
[24] party, okay?
[25] **Q:** Right.

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F. Fiorillo

[1]
[2] **A:** In 2004.
[3] **Q:** We're not talking about 2004.
[4] We're talking 2005 now.
[5] **A:** No. You told me how — how he
[6] alienated me —
[7] **Q:** In 2005.
[8] **A:** Since Halloween.
[9] **Q:** No, not since Halloween. You
[10] said that in 2005 —
[11] **A:** Okay, so — okay.
[12] **Q:** Four people started alienating
[13] you. You talked about the Bosettis —
[14] **A:** Well, it started — it started —
[15] **Q:** Oh, okay.
[16] **A:** It started from — I'm going to
[17] tell you when it started. It started from
[18] the Halloween incident.
[19] **Q:** Okay.
[20] **A:** That's when it started.
[21] **Q:** Okay.
[22] **A:** That's when the department really
[23] started to fragment.
[24] **Q:** Okay. How did Hesse alienate
[25] you?

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F. Fiorillo

[1]
[2] **A:** Okay. If I was in the station,
[3] okay, and I came in, he would close the
[4] door. The Bosettis, Hardman and whoever
[5] else was in the room — those people I know
[6] were in the room, but I don't know, there
[7] might have been other officers — closed the
[8] door. Slammed the door. So now I'm on the
[9] outside, they're on the inside.
[10] **Q:** Okay.
[11] **A:** Okay?
[12] **Q:** Any other instances?
[13] **A:** It happened numerous times.
[14] **Q:** Any other examples, different
[15] from what you just said?
[16] **MR. GOODSTADT:** In addition to
[17] keeping him out of the loop and the
[18] Christmas party?
[19] **MR. NOVIKOFF:** I don't know
[20] about putting him out of the loop.
[21] That's what I'm asking.
[22] **A:** What's that?
[23] **Q:** You testified that an example
[24] which happened numerous occasions was Hesse
[25] would slam the door on you and he had

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F. Fiorillo

[1]
[2] Hardman and other people in his office,
[3] right?
[4] **A:** Gary Bosetti, Richard, Hardman.
[5] **Q:** Any other examples of how Hesse
[6] alienated you in 2005?
[7] **MR. GOODSTADT:** In addition to
[8] keeping him out of the loop and in
[9] addition to the Christmas party?
[10] **MR. NOVIKOFF:** I don't know
[11] what the loop is, so.
[12] **A:** I remember that there was a
[13] Christmas party in 2005. Um, it just so
[14] happened we weren't invited. All the other
[15] members —
[16] **Q:** "We" being who?
[17] **A:** Excuse me?
[18] **Q:** "We" being who?
[19] **A:** Okay. "We" being Tommy Snyder,
[20] Kevin Lamm, myself.
[21] **Q:** Okay. Any other examples of how
[22] he alienated you, "he" being Hesse, in 2005?
[23] **A:** Well, in 2005, it became — let's
[24] see. I'm trying to figure it. In 2005, at
[25] a certain point in time, he took over the

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F. Fiorillo

[1]
[2] scheduling, and what happened was I worked
[3] all year round on the schedule, and all of a
[4] sudden, there came a point in time, I don't
[5] know, maybe October of 2005 that I was off
[6] the schedule, because I normally worked
[7] Thanksgiving. I worked every Thanksgiving
[8] since I started there, and, um, I didn't
[9] work Thanksgiving. But I didn't work any
[10] tours at all.
[11] Q: Oh, okay. So after —
[12] A: Only, okay, from after —
[13] from — let's see. I didn't work any tour
[14] at a certain point in time in — I don't
[15] know — I want to say October. From after
[16] October, the only tour I worked was, to the
[17] best of my memory, is New Year's Eve and New
[18] Year's Day. So it would be like the end of
[19] 2005, the first day in 2006, and that was my
[20] last tour. I didn't get any tours all the
[21] way to April 2, 2006, the day where I was
[22] fired. So that, to me, I was being
[23] alienated.
[24] Q: Okay. So if I understand you
[25] correctly, at some point in time in October

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F. Fiorillo

[1] of 2005, in your opinion, Hesse became in
[2] control of scheduling?
[3] A: I don't — I don't know exactly
[4] if who became in — in control.
[5] Q: Well, you said you believed Hesse
[6] did.
[7] A: Yeah. But I don't know if it was
[8] him, you know — I think quite possibly it
[9] was him.
[10] Q: Well, you just said Hesse was and
[11] then after that you didn't get many tours.
[12] A: Right.
[13] Q: Right.
[14] A: I'm saying I believe it was him.
[15] Q: Right. Okay. That's what I'm
[16] asking you.
[17] A: Okay. I'm sorry.
[18] Q: So in 2000 — after the season
[19] was over — well —
[20] A: No. Don't go by the season,
[21] because I worked —
[22] Q: Sir —
[23] MR. GOODSTADT: Let him ask the
[24] question.
[25]

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F. Fiorillo

[1]
[2] Q: October is after the season,
[3] right?
[4] A: No. But I think I worked a tour
[5] in October. That's what I'm trying —
[6] Q: I'm not —
[7] A: Or late September.
[8] Q: Sir, I'm not asking you that
[9] question. I just want to understand what
[10] your knowledge is. October is after the
[11] season, right?
[12] A: For the seasonals.
[13] Q: Right.
[14] A: Yes.
[15] Q: The season is two weeks before —
[16] A: For the seasonals.
[17] Q: Sir, the season is two weeks
[18] before Memorial Day to two weeks after Labor
[19] Day, right?
[20] A: Correct.
[21] Q: So we can all agree that October
[22] is after the "season," right?
[23] A: For the seasonal police officers.
[24] Q: Right.
[25] A: Correct.

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F. Fiorillo

[1]
[2] Q: So if I understand your
[3] testimony, at some point after the 2005
[4] season ended, Hesse began to assume control
[5] of the scheduling and your tours ended?
[6] A: Yes.
[7] Q: Fine. You were hired for the
[8] 2005 season, right?
[9] A: I was hired —
[10] Q: You were hired by the Village of
[11] Ocean Beach for the 2005 season, correct?
[12] MR. GOODSTADT: Objection.
[13] A: I kept on working.
[14] MR. GOODSTADT: Before.
[15] A: I was hired in 2002.
[16] MR. GOODSTADT: Yeah.
[17] Q: Did you work for the Village in
[18] the 2005 season?
[19] A: Yes.
[20] Q: Okay. And Mr. Hesse was there at
[21] the time, correct?
[22] A: Yes.
[23] Q: Okay. And that was after the
[24] Halloween incident?
[25] A: Yes.

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F. Fiorillo

- [1] Q: Any other examples of how Hesse
[2] alienated you in 2005?
[3] A: Um, I believe there was a party
[4] for Hank Clemens because he was coming home
[5] from I think it was Iraq, and his wife told
[6] Hesse to post the, um, date that Hank was
[7] going to come back because she was having a
[8] party for him, and Hesse took the, um, the
[9] invitation off the bulletin board so that
[10] Kevin, myself and Tommy, we never — what
[11] happened was Kevin saw Hank's wife later on
[12] after the party and said, "How come you
[13] didn't come?" And then he said, "Well, I
[14] didn't even know about it." And then she
[15] said that she gave George the invitation to
[16] put on the bulletin board, and that's —
[17] that's how I felt we were alienated. You
[18] know.
[19] Q: Any other examples? Listen, I'm
[20] not challenging how you feel.
[21] A: The Christmas party.
[22] Q: I'm just asking you to give me
[23] some examples.
[24] A: The Christmas party.
[25]

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F. Fiorillo

- [1] Q: You told me that.
[2] A: No. In 2005.
[3] Q: Right. I think you've mentioned
[4] that.
[5] A: Okay.
[6] Q: Any other examples of alienation
[7] at the hands of George Hesse in 2005?
[8] A: I would say, to the best of my
[9] memory right now, those are — those that I
[10] gave you.
[11] Q: Okay. Now let's — let me ask
[12] you this, and maybe it could prevent me from
[13] having to ask you numerous questions.
[14] You've alleged in paragraph 101 that you
[15] believed you were retaliated against because
[16] of complaints that you made concerning
[17] various instances of obstruction of justice,
[18] abuse of power and other unlawful conduct?
[19] A: Absolutely.
[20] Q: Okay. Did you ever complain to
[21] Mayor Rogers about any of the examples of
[22] what you say you complained about?
[23] A: No.
[24] Q: Okay. Did you ever complain to
[25]

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F. Fiorillo

- [1] Trustee Loeffler about any of the complaints
[2] that — any of the examples that you've
[3] complained about that's referenced in 101,
[4] other than what you've already testified to?
[5] A: No.
[6] Q: The answer's no?
[7] A: Right.
[8] Q: And we understand what you've
[9] already testified to, right?
[10] A: Yes. Yes. Yes.
[11] Q: Did you ever complain — same
[12] question now with regard to the board of
[13] trustees as a group, did you ever complain
[14] to them?
[15] A: No.
[16] Q: And this is from 2002 through
[17] April 2, 2006, correct?
[18] A: (Indicating).
[19] Q: You never complained to them?
[20] A: No.
[21] Q: Did you ever complain to the
[22] Suffolk County District Attorney's office?
[23] A: No.
[24] Q: Did you ever communicate with the
[25]

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F. Fiorillo

- [1] Suffolk County District Attorney's office
[2] before April 2, 2006 about the complaints
[3] that you say you were fired for in
[4] retaliation for making the complaints? Do
[5] you want me to rephrase the question?
[6] A: Yes, please.
[7] Q: You got it. With regard to those
[8] complaints that you are referencing in
[9] paragraph 101, did you ever communicate with
[10] the Suffolk County District Attorney's
[11] office prior to April 2, 2006?
[12] A: Yes.
[13] Q: Okay. On what issue or issues
[14] did you complain to the Suffolk County
[15] District Attorney's office about prior to
[16] April 2, 2006?
[17] A: The Halloween fight.
[18] Q: Okay.
[19] A: The Jesse Prisco incident.
[20] Q: Okay.
[21] A: The Samuel Gilbert incident.
[22] Q: Okay.
[23] A: Those things.
[24] Q: Okay. Jesse Prisco, what was
[25]

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F. Fiorillo

[1] that incident? What are you talking about
[2] when you say "Jesse Prisco"? I understand
[3] the Halloween. I think I know what the
[4] Gilbert incident is. Prisco I don't know.

[5] A: Prisco was —

[6] MR. GOODSTADT: That's because
[7] you didn't let him answer any questions
[8] about Prisco, otherwise you would know.

[9] MR. NOVIKOFF: Okay.

[10] A: Jesse Prisco was a, um, a —
[11] let's see, how can I put this? He was a
[12] renter in a house.

[13] Q: Um-hum.

[14] A: He was a lawyer.

[15] Q: Right.

[16] A: There was a — do you want me to
[17] explain the whole thing or how far, you
[18] know, like —

[19] Q: I just need a description of what
[20] you're referring to. I mean —

[21] A: All right. There was —

[22] Q: Was it a police brutality? Was
[23] it an unlawful —

[24] A: I'll shorten it up. I'll shorten
[25]

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F. Fiorillo

[1] it up. It was a police brutality incident.

[2] Q: When did it take place, at least
[3] in your opinion?

[4] A: That took place I want to say
[5] in — I want to say that took place sometime
[6] in 2004.

[7] Q: Okay. Now you say you
[8] communicated with the Suffolk County
[9] District Attorney's office. With regard to
[10] the Halloween incident that you just
[11] testified to, did you contact the Suffolk
[12] County DA's or did they contact you?

[13] A: The Halloween incident, they
[14] contacted me.

[15] Q: Okay. When did the Suffolk
[16] County DA's office contact you about the
[17] Halloween incident?

[18] A: I don't recall. I don't know the
[19] timeline.

[20] Q: Well, was it in 2004?

[21] A: I think it was in 2005.

[22] Q: And who contacted you at the DA's
[23] office?

[24] A: Let's see. I believe it was —
[25]

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F. Fiorillo

[1] it started with the Samuel Gilbert incident
[2] in 2005.

[3] Q: Okay.

[4] A: Okay? That was around the end of
[5] August 2005.

[6] Q: Okay. So then let me just stop
[7] you, because I don't mean to interrupt your
[8] answer.

[9] A: Because I'm trying to get the
[10] timeline.

[11] Q: That's what I'm trying to focus
[12] on. So is it your testimony that the first
[13] time you would have communicated with the
[14] Suffolk County District Attorney's office
[15] concerning the Halloween incident was after
[16] the Gilbert incident in August of 2005?

[17] A: I believe so.

[18] Q: Okay. And when —

[19] A: I didn't — they contacted me.

[20] Q: Well, you've established —
[21] you've established that from the Halloween.
[22] I think we're going to be able to clear this
[23] up in a couple minutes. When the Suffolk
[24] County District Attorney's office first
[25]

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F. Fiorillo

[1] communicated with you with regard to
[2] anything involving Ocean Beach, was it
[3] specifically with regard to the Halloween
[4] incident or was it with regard to the
[5] Gilbert incident as well?

[6] A: Both.

[7] Q: Okay. And —

[8] A: Actually, actually, the three of
[9] them — all three.

[10] Q: Okay. So with regard to Prisco,
[11] Gilbert and the Halloween incident, you
[12] would have not communicated with the DA's
[13] office until after the Gilbert incident; is
[14] that correct?

[15] A: Yeah. Because they contacted me
[16] in —

[17] Q: Right.

[18] A: After the Gilbert incident.

[19] Q: And who did you speak to?

[20] A: Well, initially the, um,
[21] initially they came to my house.

[22] Q: I'm just saying, who?

[23] A: Well, many people.

[24] Q: Who was the first one?
[25]

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F. Fiorillo

[1] A: Tom Iacopelli and an investigator
[2] Cori — Corallao. Something like — I'm not
[3] familiar with — with the name.
[4] MR. NOVIKOFF: Now — and I
[5] think the tape — how much time do I
[6] have left on the tape?
[7] THE VIDEOGRAPHER: Two minutes.
[8] Q: So — and we'll get more — in
[9] more detail with the DA's conversations with
[10] you. Did you ever advise — well, did you
[11] ever report to the Ocean Beach Police
[12] Department that the Suffolk County District
[13] Attorney's office communicated to you with
[14] regard to Gilbert, Prisco and the Halloween
[15] incident?
[16] A: I spoke to George Hesse.
[17] Q: What did you say to George Hesse?
[18] A: I said they contacted me.
[19] Q: And what did he say?
[20] A: He said, "It's not a big deal."
[21] He goes, "I'm not even worried about it."
[22] Q: Did he tell you to lie?
[23] A: Did he tell me to lie?
[24] Q: Yeah.

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F. Fiorillo

[1] A: No. We didn't discuss anything
[2] that was —
[3] Q: Did he tell you — did he
[4] threaten you when you reported this to him?
[5] A: No.
[6] Q: Did he do anything, in your
[7] opinion, that you believed indicated that he
[8] wanted you to be less than truthful with the
[9] Suffolk County District Attorney's office?
[10] A: Of course not.
[11] MR. NOVIKOFF: Okay. Let's
[12] switch the tape.
[13] THE VIDEOGRAPHER: This ends
[14] tape number two. The time is 12:25
[15] p.m. We're going off the record.
[16] (A break was taken.)
[17] THE VIDEOGRAPHER: This begins
[18] tape number three. The time is 1:16
[19] p.m. Back on the record.
[20] Q: Mr. Fiorillo, we left before the
[21] lunch break discussing generally the time —
[22] the initial time that the Suffolk County
[23] District Attorney contacted you, and I think
[24] you testified that it was at some point in

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F. Fiorillo

[1] time after the Gilbert incident in August of
[2] 2005; is that correct?
[3] A: Correct.
[4] Q: Okay. On how many occasions
[5] between 2005 — August 2005 and April 2 of
[6] 2006 did you and someone from the Suffolk
[7] County District Attorney's office
[8] communicate concerning Ocean Beach?
[9] A: I don't recall how many times
[10] specifically.
[11] Q: Between one and five?
[12] A: I would say.
[13] Q: More than five?
[14] A: I don't think so.
[15] Q: Okay. And I'll get back to
[16] that — to those conversations shortly.
[17] Once — well, between April 2, 2006 and the
[18] time that you retained the Thompson Wigdor
[19] law firm, had you spoken to the Suffolk
[20] County District Attorney's office?
[21] A: Yes.
[22] Q: Okay. Did you communicate with
[23] them or did they contact you?
[24] MR. GOODSTADT: Objection.

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F. Fiorillo

[1] Q: Well, withdrawn. Who — who
[2] reached out to whom between April 2, 2006
[3] and the time you retained the Goodstadt law
[4] firm?
[5] MR. GOODSTADT: The Thompson
[6] law firm? I'm fine with that.
[7] Q: The Thompson Wigdor law firm.
[8] Yes.
[9] A: I'm not sure if they called me
[10] first or if I called them first.
[11] Q: Well, let me ask you
[12] specifically. Did you — did you call the
[13] Suffolk County District Attorney's office to
[14] advise them that you were fired?
[15] A: I think, yes, there came a
[16] certain — a point in time that I did call
[17] them about that.
[18] Q: Okay. Was that before or after
[19] you first communicated with the Thompson
[20] Wigdor law firm?
[21] A: Well, I don't know. I don't
[22] know.
[23] Q: Who did you call — I'm sorry.
[24] Who did you communicate with with regard to

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(1) *F. Fiorillo*
(2) advising them that you were fired by Ocean
(3) Beach as you say you were?
(4) A: I — I called the — the
(5) specific group that handles the government
(6) corruption in Suffolk County.
(7) Q: Okay.
(8) A: That's what I — that's who I
(9) looked up. And they transferred me to a
(10) person in that office.
(11) Q: And who was that person?
(12) A: There were two people at the
(13) time.
(14) Q: And who were they?
(15) A: There were Walter Warkenthien and
(16) Richard Burke, and thereafter, Robert
(17) Biancavilla.
(18) Q: Okay. Can you — do you know the
(19) spellings of any of those names? If you
(20) don't, that's fine. Just for the court
(21) reporter. Never mind. And what did you say
(22) on the first occasion — on the occasion
(23) that you called to advise the Suffolk County
(24) DA that you were fired, what did you say?
(25) A: I told them what had happened.

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(1) *F. Fiorillo*
(2) Q: Okay. And what was that?
(3) A: That, initially, I was — I
(4) received a letter in the mail stating that I
(5) was to appear at a Ocean Beach Police
(6) Department meeting on April 2, 2006 at
(7) 12:00, and that the letter stated that we
(8) would all be issued new IDs. And then when
(9) I got there, George Hesse made an
(10) announcement that he wanted all the officers
(11) to line up in line at the boathouse, and
(12) what happened was the only officers that
(13) lined up at the boathouse was Eddie Carter,
(14) myself, Joe Nofi and Kevin Lamm. Everybody
(15) else was down by the police station. Like
(16) a — it's like a block away.
(17) Q: When did — when did Hesse —
(18) and I know I'm going off the line of
(19) questioning — when did Hesse tell all the
(20) officers to line up?
(21) A: When we got — when we got —
(22) when we were outside the boathouse —
(23) Q: Okay?
(24) A: — we were going to have a
(25) meeting in the boathouse.

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(1) *F. Fiorillo*
(2) Q: Right.
(3) A: But he said before the meeting,
(4) he wants us all to line up. He was going to
(5) talk to us one at a time. But then when we
(6) lined up, it wasn't like the whole
(7) department lined up. It was only four of
(8) us.
(9) Q: Got it. Okay. Um, and what else
(10) did you say to the District Attorney's
(11) office in your first conversation with them
(12) about you being fired?
(13) A: I told — I told the District
(14) Attorney's office that I thought that there
(15) was, um — that it was unfair, and I didn't
(16) know what was going on over there, but I
(17) felt that George Hesse was retaliating
(18) against me because of the Halloween fight.
(19) Q: Okay. Did you tell them anything
(20) else with regard to you not being hired —
(21) rehired by the Ocean Beach — Village of
(22) Ocean Beach?
(23) MR. GOODSTADT: Objection.
(24) Q: In that first conversation?
(25) A: Well, I think in the first

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(1) *F. Fiorillo*
(2) conversation, it — it — it went from me
(3) telling him about the — the firing, to him
(4) like questioning more — questioning me
(5) more about the Halloween fight.
(6) Q: That's — that's fine. I'm not
(7) questioning you what anyone said. I'm just
(8) trying to find out —
(9) A: No. That's how it went.
(10) Q: Okay.
(11) A: It wasn't — you know. It was
(12) yes, I told him about the firing, and then
(13) he went back to the Halloween fight, and he
(14) asked me if I — if he thought that I
(15) thought that had anything to do with it.
(16) Q: Okay.
(17) A: And I said yes.
(18) Q: Now did he give you any — did
(19) this Suffolk County District Attorney's
(20) office employee give you any advice on what
(21) you should do with regard to being — I'm
(22) sorry, with regard to your rights concerning
(23) being fired in this first conversation?
(24) A: Um, I'm trying to think if I —
(25) if I asked him — let me just think this

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[1] out. I think it was his suggestion — his
[2] suggestion that, you know, I think you need
[3] a lawyer.
[4] **Q:** Okay. And did you tell him
[5] during this first conversation that you had
[6] talked to a lawyer?
[7] **MR. GOODSTADT:** Objection.
[8] **A:** It was — it was right after we
[9] had gotten fired, so I didn't contact a
[10] lawyer at this time.
[11] **Q:** Okay. Then —
[12] **A:** It was like a short time later.
[13] Within a couple of weeks.
[14] **Q:** Okay. So within a couple of
[15] weeks of you not being rehired by Ocean
[16] Beach, you contacted the Suffolk County
[17] District Attorney to tell them about what
[18] happened on April 2?
[19] **A:** Yes.
[20] **MR. GOODSTADT:** Objection.
[21] **MR. NOVIKOFF:** Is the objection
[22] as to how I characterized the firing or
[23] not being rehired, because we have an
[24] agreement?
[25]

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[1] **MR. GOODSTADT:** I know we have
[2] an agreement. There were a couple of
[3] points.
[4] **MR. NOVIKOFF:** Okay. That's
[5] fine. As long as it wasn't just that.
[6] **MR. GOODSTADT:** It was that
[7] and —
[8] **MR. NOVIKOFF:** Because we
[9] have — we have the agreement.
[10] **MR. GOODSTADT:** Okay.
[11] **Q:** What was — when was the next
[12] time that you spoke with someone from the
[13] District Attorney's office concerning the
[14] fact that you weren't hired — rehired on
[15] April 2, 2006, if there was one?
[16] **A:** They didn't take that issue up so
[17] much as far as other issues —
[18] **Q:** Okay.
[19] **A:** — they were more concerned
[20] about. In other words, that was my — that
[21] was me personally. It had nothing to do
[22] with them or anything they were
[23] investigating as far as me being fired.
[24] **Q:** Got it. So now let's go back to
[25]

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F. Fiorillo

[1] between the time period of August 2005 and
[2] April 2, 2006. You say you spoke to the
[3] District Attorney around no more than five
[4] times concerning —
[5] **A:** I would say.
[6] **Q:** — issues involving Ocean Beach,
[7] right?
[8] **A:** Right. Well, up until which
[9] point in time?
[10] **Q:** Between August 2005 and April 2,
[11] 2006.
[12] **A:** Right.
[13] **Q:** Okay. And you did not personally
[14] witness anything involving the Gilbert
[15] incident, did you?
[16] **A:** Nothing whatsoever.
[17] **Q:** And you didn't personally witness
[18] anything involving the Prisco incident, did
[19] you?
[20] **A:** Yes.
[21] **Q:** Oh, you did. What did you
[22] witness?
[23] **A:** I was at the scene when Prisco
[24] was handcuffed and put into the police
[25]

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F. Fiorillo

[1] vehicle.
[2] **Q:** Okay.
[3] **A:** I also wrote summonses on the —
[4] at the scene.
[5] **Q:** Did you witness any alleged
[6] brutality —
[7] **A:** No.
[8] **Q:** — involving Mr. Prisco?
[9] **A:** No.
[10] **Q:** Okay.
[11] **A:** They asked me that also.
[12] **Q:** Well, I would hope they would
[13] have. Have you given any grand jury
[14] testimony?
[15] **A:** Not yet.
[16] **Q:** Well, has anyone told you that
[17] you have to give — you're going to be
[18] giving grand jury testimony?
[19] **A:** Yes.
[20] **Q:** Who has told you that you're
[21] going to be giving grand jury testimony?
[22] **A:** District Attorney's office.
[23] **Q:** With regard to what issue?
[24] **A:** The Halloween fight.
[25]

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[1] *F. Fiorillo*
[2] Q: Okay. And when did the District
[3] Attorney say that you were going to be
[4] giving grand jury testimony regarding the
[5] Halloween fight?
[6] A: Um, about a month ago.
[7] Q: And when did they say you were
[8] going to give the testimony?
[9] A: Bob Biancavilla said he's going
[10] to call me back.
[11] Q: Did he say approximately what
[12] time period you would be giving this
[13] testimony?
[14] A: He didn't give me a time period,
[15] but he did say that the Gilbert case is the
[16] first case that they're going to deal with,
[17] and then they said they're going to proceed
[18] with the other cases. So that's — that's
[19] what I was told.
[20] Q: Okay. Have you given any sworn
[21] statements to the Suffolk County District
[22] Attorney's office prior to today?
[23] A: No.
[24] Q: Do you understand what I mean by
[25] "sworn statement"?

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F. Fiorillo

[1] *F. Fiorillo*
[2] A: Under oath or —
[3] Q: Right.
[4] A: Notarized?
[5] Q: Right. No?
[6] A: No.
[7] MR. GOODSTADT: Just so it's
[8] clear, when you say "prior to today,"
[9] he didn't give one today.
[10] MR. NOVIKOFF: I just used
[11] today —
[12] MR. GOODSTADT: It was a little
[13] loaded I guess.
[14] MR. NOVIKOFF: No. No. I'm
[15] just using today as a period of
[16] reference.
[17] MR. GOODSTADT: Understood.
[18] Q: And —
[19] MR. GOODSTADT: It could be
[20] inferred that you meant prior today.
[21] That he gave one today.
[22] Q: Have you provided the District
[23] Attorney's office any documentation with
[24] regard to any of their investigations?
[25] A: No documentation.

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F. Fiorillo

[1] *F. Fiorillo*
[2] Q: Have you provided the District
[3] Attorney with copies of any audio tapes
[4] prior to today concerning any of their
[5] investigations?
[6] A: No.
[7] Q: Have you provided the District
[8] Attorney with anything, other than your own
[9] statements, concerning any of the issues
[10] that they're investigating, prior to today?
[11] A: Have I provided anything other
[12] than my own statements?
[13] Q: Right.
[14] A: Yes.
[15] Q: What have you provided?
[16] A: Um, well, emails as far as back
[17] and forth information. Instead of using the
[18] phone, email.
[19] Q: Emails —
[20] A: As far as when they need
[21] information pertaining to whatever they are
[22] asking me, I'll email them back.
[23] Q: Oh, okay. Well, beyond you
[24] either emailing them communications or
[25] talking to them over the phone or in person,

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F. Fiorillo

[1] *F. Fiorillo*
[2] have you provided them anything else with
[3] regard to the issues that they're
[4] investigating concerning Ocean Beach?
[5] A: I don't think I provided them
[6] with any paperwork, anything like that.
[7] Q: Okay. And are you aware if any
[8] of the other Plaintiffs have testified
[9] before a grand jury involving any of the
[10] issues that the Suffolk County District
[11] Attorney's investigating?
[12] A: Any of —
[13] Q: Are you aware of —
[14] A: Who else like?
[15] Q: If any of the other Plaintiffs in
[16] this case —
[17] A: This case.
[18] Q: — have testified in a grand jury
[19] concerning any investigation by the Suffolk
[20] County District Attorney concerning Ocean
[21] Beach?
[22] A: I don't know.
[23] Q: Okay. And — withdrawn. Okay.
[24] So now let's go back to complaints that you
[25] raised in 2005 with regard to — and I know

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F. Fiorillo

[1]
[2] it's been a while, so let's go back to
[3] paragraph 101. Now, again, with regard to
[4] the complaints that you spoke of with
[5] Ms. Sanchez in that April meeting with her
[6] that was attended by Nofi and Lamm, did you
[7] complain in 2005 to any media outlet with
[8] regard to those issues?
[9] **A:** No.
[10] **Q:** Okay. Did you complain to any
[11] other police officer outside of the Village
[12] of Ocean Beach in 2005?
[13] **A:** I don't believe so.
[14] **Q:** Did you attend any Suffolk County
[15] Legislative board meetings?
[16] **A:** No.
[17] **Q:** Any Village board meetings in
[18] 2005?
[19] **A:** No.
[20] **Q:** Same question for 2006,
[21] between — between January 1, 2006 and April
[22] 2, 2006, did you complain — did you
[23] communicate any complaints to the — to a
[24] media outlet?
[25] **A:** No. Oh, wait. In 2006?

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F. Fiorillo

[1] **Q:** Between January 1, 2006 and April
[2] 2, 2006, did you make any — did you
[3] communicate with any media outlet concerning
[4] any issues —
[5] **A:** No.
[6] **Q:** — pertaining to Ocean Beach?
[7] **A:** No. Nothing.
[8] **MR. GOODSTADT:** Let him finish
[9] the question.
[10] **A:** Oh.
[11] **Q:** Let's break it down. Between
[12] April 1, 2006 and — I'm sorry, between
[13] January 1, 2006 and April 2, 2006, did you
[14] raise any — did you communicate with any
[15] media outlet concerning any issues
[16] pertaining to Ocean Beach?
[17] **A:** No.
[18] **Q:** Okay. Did you communicate with
[19] the Suffolk County District Attorney's
[20] office — withdrawn. We talked about that.
[21] Did you attend any Suffolk County
[22] Legislative meetings?
[23] **A:** No.
[24] **Q:** Did you attend any Village board

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F. Fiorillo

[1] meetings in that time period?
[2] **A:** No.
[3] **Q:** Did you complain to Mayor
[4] Loeffler about anything in that time period
[5] in 2006?
[6] **A:** No.
[7] **Q:** Did you complain to any
[8] particular trustee of the Village?
[9] **A:** No.
[10] **Q:** Okay. Did you complain to
[11] Paradiso about anything in that time period?
[12] **A:** No.
[13] **Q:** Did you complain to Hesse about
[14] anything in that time period?
[15] **A:** No.
[16] **Q:** And I'm going to ask you similar
[17] questions, but I think it may alleviate
[18] another long line of questions. You've made
[19] a lot of allegations in this Complaint about
[20] conduct and behavior at Ocean Beach while
[21] you were a police officer there, right?
[22] **A:** Yes.
[23] **Q:** And they range anywhere from
[24] drinking to police brutality to cover ups,
[25]

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F. Fiorillo

[1] correct?
[2] **A:** Correct.
[3] **Q:** And you're familiar with all of
[4] the allegations that you've made in the
[5] complaint, correct?
[6] **MR. GOODSTADT:** Objection.
[7] **A:** Yes.
[8] **Q:** Okay. With regards to any
[9] complaint that you have referenced in your
[10] Complaint that you filed, did you ever
[11] complain to a media outlet prior to April 2,
[12] 2006?
[13] **A:** No.
[14] **Q:** Did you ever complain to Mayor
[15] Rogers?
[16] **A:** No.
[17] **Q:** Other than for the two instances
[18] that we've discussed with Mr. Loeffler, did
[19] you ever complain to Mr. Loeffler?
[20] **A:** No.
[21] **Q:** Did you ever attend a board
[22] meeting for the purpose of raising any issue
[23] that's referenced in this Complaint?
[24] **A:** Hold on. Let me get that again.
[25]

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F. Fiorillo

[1] Other —
[2] Q: Did you ever — did you ever
[3] attend a Village board meeting —
[4] A: No.
[5] Q: — for the purpose of
[6] communicating any concerns about anything
[7] that you've referenced in this Complaint?
[8] A: No. Can I get back to one other
[9] question you just said?
[10] Q: You know what, hold that thought.
[11] Let me just finish the line. Couple more
[12] questions —
[13] A: I'm not clear on one question.
[14] Q: And then you can come back to me
[15] and tell me where you're not clear. With
[16] regard to any of the issues raised in this
[17] Complaint, did you ever attend a Suffolk
[18] County Legislative meeting for the purpose
[19] of raising issues that are reflected in this
[20] Complaint?
[21] A: No.
[22] Q: Did you ever write a letter to
[23] the Suffolk County Civil Service Department
[24] concerning any issues that are raised in
[25]

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F. Fiorillo

[1] this Complaint prior to April 2, 2006?
[2] A: No.
[3] Q: Did you ever write a letter to
[4] any police department, prior to April 2,
[5] 2006, concerning any of the issues raised in
[6] this Complaint?
[7] A: No.
[8] Q: Did anyone ever — withdrawn.
[9] Did anyone associated with the Village ever
[10] threaten you with any disciplinary action if
[11] you communicated any concern to the media
[12] concerning any issues raised in this
[13] Complaint?
[14] MR. GOODSTADT: Objection.
[15] A: Did any associate —
[16] Q: Did any employee of the
[17] Village — withdrawn. Did any — did any
[18] employee of the Village ever prevent you
[19] from making any complaints concerning the
[20] issues raised in this Complaint to any media
[21] outlet?
[22] A: Not that I can recall.
[23] Q: Same question with regard to
[24] complaints to the Village board?
[25]

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F. Fiorillo

[1] A: Not that I can recall.
[2] Q: Same question with regard to
[3] either Mayor Rogers or Trustee Loeffler?
[4] A: Can you just break that question
[5] down with Mayor Rogers, because I want to —
[6] Q: Same question with regard to
[7] Mayor Rogers.
[8] A: Now the question? Just give
[9] me —
[10] Q: Did anyone prevent you from
[11] raising any complaint with Mayor Rogers
[12] concerning any issue reflected in your
[13] Complaint?
[14] A: Not that I can recall.
[15] Q: Did anyone prevent you from
[16] raising — withdrawn. Did anyone ever
[17] prevent you from making a complaint to Mayor
[18] Loeffler or then Trustee Loeffler concerning
[19] any issue raised in your Complaint?
[20] A: Not that I can recall.
[21] Q: Did anyone ever prevent you from
[22] raising a complaint concerning any issue in
[23] your Federal Complaint with the Suffolk
[24] County legislature?
[25]

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F. Fiorillo

[1] A: Not that I can recall.
[2] Q: Did any — you don't recall?
[3] A: Not that I can recall.
[4] Q: Okay. Did anyone ever prevent
[5] you from raising any complaints with the
[6] Suffolk County District Attorney's office
[7] concerning any issue that's raised in this
[8] Complaint?
[9] A: Not that I can recall.
[10] Q: Okay. Now you — when you —
[11] when you met about five times with the
[12] Suffolk County District Attorney's office
[13] between August '05 and April '06, did you
[14] report to George Hesse with regard to any of
[15] those conversations?
[16] A: Let me get this straight. You
[17] know what it is, I have a question in my —
[18] in my mind that I wanted to ask you
[19] pertaining to a question you asked me.
[20] Q: You know what —
[21] A: And I'm not clear.
[22] Q: Why don't you ask me that
[23] question.
[24] A: I'm not paying close attention.
[25]

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F. Fiorillo

[1]
[2] When you said that did I try to complain to
[3] Natalie Rogers?
[4] **Q:** No, I didn't say if you tried to
[5] complain. I said did you complain?
[6] **A:** Well, what I did was I wrote a
[7] letter.
[8] **Q:** Right.
[9] **A:** Okay. I really wanted to talk to
[10] her and I tried calling the Village, and
[11] what happened was I tried calling the
[12] Village to talk to Maryanne Minerva, because
[13] I wanted to complain about what happened
[14] on — I called the Monday after we were
[15] fired.
[16] **Q:** Okay. Now I'm going to get to
[17] that.
[18] **A:** Okay.
[19] **Q:** But all of my questions —
[20] **A:** Have nothing to do with that.
[21] **Q:** — were before April 2, 2006.
[22] **A:** Okay. All right. I was just —
[23] **Q:** Okay. That's the time — do I
[24] need to go over all the questions again?
[25] **A:** No. I got you.

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F. Fiorillo

[1]
[2] **Q:** Okay. Between August 2005 and
[3] January — and April 2000 — April 2, 2006,
[4] did you advise Mr. Hesse with regard to the
[5] substance of any of the conversations you
[6] had with the Suffolk County District
[7] Attorney's office?
[8] **A:** I know I had a conversation with
[9] him about who came by, when they came by,
[10] and they were asking me questions if I was
[11] involved and how come they claimed I was on
[12] duty, myself and Joe Nofi, because we were
[13] never signed off.
[14] **Q:** Claimed you were on duty when?
[15] **A:** The night of the — are you
[16] talking about the Gilbert incident?
[17] **Q:** No. No. I'm not talking about
[18] anything specific, and I'll rephrase the
[19] question.
[20] **A:** Oh, I see. I know what it is. I
[21] got it.
[22] **Q:** Hold on. So the record is clear.
[23] **A:** I got it.
[24] **Q:** You testified that approximately
[25] five times, could be a little less, could be

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F. Fiorillo

[1]
[2] a little more, you spoke to the District
[3] Attorney's office concerning Ocean Beach
[4] issues between August '05 and April 2, 2006,
[5] correct?
[6] **A:** Correct.
[7] **Q:** Did you — other than advising
[8] Mr. Hesse the first time the District
[9] Attorney contacted you to speak to you, did
[10] you ever advise Mr. Nofi about the substance
[11] of any of the conversations you had with
[12] them?
[13] **MR. GOODSTADT:** Objection.
[14] **A:** Mr. Hesse — you mean —
[15] **Q:** Mr. Hesse. I'm sorry, Mr. Hesse.
[16] **A:** Okay. So Mr. Nofi's out of it?
[17] **Q:** Mr. Nofi's out of it.
[18] **A:** Okay. Yes.
[19] **Q:** Okay. What did you advise
[20] Mr. Hesse with regard to the substance of
[21] anything that was discussed with the Suffolk
[22] County District Attorney's office?
[23] **A:** Okay. At first, I told him that
[24] they dropped by my house and they wanted to
[25] know essentially what happened that night,

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[1]
[2] and I told them I wasn't working, and they
[3] had me on the — I wasn't in the blotter as
[4] being off duty.
[5] **Q:** Okay.
[6] **A:** Myself and Joe Nofi.
[7] **Q:** Right.
[8] **A:** Okay? But, in fact, I was,
[9] because I was on the 1:00 ferry that left
[10] Ocean Beach that night.
[11] **Q:** Okay.
[12] **A:** But I think they later on got it
[13] all squared away, where it was — it just
[14] wasn't put in the blotter.
[15] **Q:** Right. Now, Mr. Fiorillo —
[16] **A:** So I told him —
[17] **Q:** I'm sorry. Go ahead.
[18] **A:** So I told him about that.
[19] **Q:** Okay.
[20] **A:** And then I told him about —
[21] let's see. They — I told them — I told
[22] him that they went to Eddie Carter's house
[23] and thought that Eddie Carter was involved
[24] in the Gilbert fight, but George said it's
[25] impossible because he wasn't working that

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F. Fiorillo

[1] night.
[2] **Q:** Okay.
[3] **A:** So that — but, basically it was
[4] only those two times.
[5] **Q:** Okay. Did you ever advise George
[6] Hesse of — as to anything that you
[7] specifically said to the DA concerning
[8] either the Halloween incident, the Gilbert
[9] incident or the Prisco incident, other than
[10] what you've just testified to?
[11] **A:** No.
[12] **Q:** Okay. Now I'm going to go into
[13] this line of questioning a little later
[14] concerning your job searches, but I don't
[15] think I asked you this question. When did
[16] you stop working for that company for which
[17] you were a driver in 2006?
[18] **A:** It was a very short period of
[19] time. It was maybe February of 2006.
[20] **Q:** Okay. And why did you stop
[21] working for them?
[22] **A:** Because they hired initially for
[23] two days driving, and then what happened was
[24] they — I don't know what happened because I
[25]

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F. Fiorillo

[1] didn't know the other drivers, but
[2] apparently they couldn't get the other
[3] driver that was working on a Saturday
[4] anymore and they wanted me to work Saturday,
[5] so I told them that I couldn't work Saturday
[6] because upcoming, I work Saturdays in Ocean
[7] Beach.
[8] **Q:** Okay.
[9] **A:** So what they said was this isn't
[10] working out and they had to get somebody
[11] else that was going to work the Saturdays
[12] for them. So I — I, um — I couldn't work
[13] for them anymore, because I didn't want to
[14] give up Ocean Beach. It was either give up
[15] Ocean Beach, drive, or — or not give up
[16] Ocean Beach and give up the driving.
[17] **Q:** Okay. Now that job would have
[18] paid you \$60,000 a year; is that correct?
[19] **A:** Correct.
[20] **Q:** In 2005, how much did you earn
[21] from Ocean Beach?
[22] **A:** I don't even know. 20 something.
[23] **Q:** How about —
[24] **A:** But I worked another job, you
[25]

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F. Fiorillo

[1] know what I mean? I worked two jobs.
[2] **Q:** How about in 2004, how much did
[3] you earn from Ocean Beach?
[4] **A:** I don't know. Approximately 20.
[5] I would — approximately 20.
[6] **Q:** How about 2003?
[7] **A:** I would say approximately — you
[8] know, I don't know exactly.
[9] **Q:** Right.
[10] **A:** I would say around that figure.
[11] **Q:** And in 2006, you had no other job
[12] prior to April 2, 2006, other than the few
[13] days that you worked for that company,
[14] correct?
[15] **A:** Correct.
[16] **Q:** Okay. And had you had, prior to
[17] April 2, any job offers for any other jobs?
[18] **MR. GOODSTADT:** Objection.
[19] **A:** Prior — prior to April 2?
[20] **Q:** Yeah. Well, let me rephrase the
[21] question —
[22] **A:** No. No.
[23] **Q:** — so there's no objection.
[24] Prior to April 2, 2006, had you been offered
[25]

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F. Fiorillo

[1] employment by any other entity or
[2] individual, other than this company that you
[3] drove for?
[4] **A:** I don't recall. I don't think I
[5] did. But I wouldn't — I wouldn't — okay.
[6] No.
[7] **Q:** Now let's go back to the
[8] Complaint. Actually, let's go back to
[9] Paridiso. What specifically — and list to
[10] me the issues that you complained to
[11] Paridiso about prior — between the first
[12] day of your employment and the last day of
[13] your employment?
[14] **A:** I complained to him about
[15] officers drinking. I complained to him
[16] about Hesse, um — one incident in
[17] particular where 3:30 in the morning he
[18] called me into the station. You want me to
[19] give you the particulars or you want me —
[20] **Q:** No. I want you to give me, if
[21] you can —
[22] **A:** Just the two things.
[23] **Q:** Just the generally and then we'll
[24] get to it. Right.
[25]

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F. Fiorillo

- [1]
- [2] **A:** Okay. So you got — I have the,
- [3] um, the officers drinking. That was the
- [4] Paridiso. Is that what you're saying?
- [5] **Q:** Okay. That's all I'm asking.
- [6] What did you complain to Paridiso about?
- [7] **A:** I complained to Paridiso about
- [8] Hesse singling me out on cleaning —
- [9] cleaning. Let's put it that way. Cleaning.
- [10] Because it was a two day period where it
- [11] just happened to be me.
- [12] **Q:** Okay.
- [13] **A:** Um, that's all I can recall at
- [14] this time.
- [15] **Q:** Is there anything that you think
- [16] if I gave you a couple more minutes to think
- [17] about it, would that help you come up with
- [18] any more examples, if in fact there were
- [19] more?
- [20] **A:** Oh, to Paridiso?
- [21] **Q:** Yeah. Just to Paridiso.
- [22] **A:** I complained — I complained to
- [23] him about my statement in the Halloween
- [24] fight because Hesse was pretty adamant on my
- [25] statement, and I was the one on the scene

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- [1] and Hesse wasn't, and it got — got to be an
- [2] issue.
- [3] **Q:** Okay. Anything else? You
- [4] mentioned you complained to Paridiso about
- [5] officers drinking?
- [6] **A:** Right.
- [7] **Q:** You've complained to Paridiso
- [8] about Hesse singling you out for cleaning,
- [9] using your words, and then you've complained
- [10] to Hesse — to Paridiso about your
- [11] statement in the Halloween fight as it
- [12] relates to Hesse?
- [13] **A:** Correct.
- [14] **Q:** Okay. Anything else?
- [15] **A:** Let's see. That's what I can
- [16] remember as of right now.
- [17] **Q:** Like I said, if I gave you a few
- [18] minutes to think about it, do you think that
- [19] would help jog your memory to the extent
- [20] there's any more examples?
- [21] **A:** I don't know. I think as we go
- [22] along, if there are any, I'll — I'll bring
- [23] it to your attention.
- [24] **Q:** Okay. Is there anything in your
- [25]

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- [1]
- [2] custody — is there any document in your
- [3] custody, possession or control that would
- [4] refresh your recollection with regard to
- [5] what issues you would have complained to
- [6] Paridiso, other than what you just testified
- [7] to?
- [8] **A:** Do I have any documents? No.
- [9] **Q:** Yeah. Or is there anything you
- [10] can think of that would jog your memory on
- [11] this issue?
- [12] **A:** I don't know right now.
- [13] **Q:** Okay. Are you nervous right now,
- [14] is that why you think —
- [15] **A:** No, I'm not nervous. I'm
- [16] trying — I'm trying to think.
- [17] **Q:** That's what I said. I mean,
- [18] I'm — I'll give as much time as you need to
- [19] think. Do you think taking two or three
- [20] minutes just to think about this one issue
- [21] without listening to my voice —
- [22] **A:** About — about —
- [23] **Q:** — would jog your memory?
- [24] **MR. GOODSTADT:** Promise?
- [25] **Q:** I'll give you five minutes of

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F. Fiorillo

- [1] silence if it helps.
- [2] **A:** I can't — I can't think of
- [3] anything else at this time.
- [4] **Q:** Okay. Now let's talk about
- [5] officers drinking. You've talked about your
- [6] complaints to Paridiso about the Bosettis.
- [7] Any other officers?
- [8] **A:** Just one other.
- [9] **Q:** Which one?
- [10] **A:** Walter Muller.
- [11] **Q:** And what were you complaining to
- [12] Paridiso about with regard to Walter Muller?
- [13] **A:** That I had to pull him out of a
- [14] bar when he was on duty on a — I had a drug
- [15] overdose, um — there was a young man in
- [16] the Village who had ingested brownies laced
- [17] with pot.
- [18] **Q:** Okay.
- [19] **A:** Or hasheesh. I didn't know what
- [20] it was at the time. But it was one of them.
- [21] **Q:** Okay.
- [22] **A:** So that was — that was another
- [23] complaint.
- [24] **Q:** No. I get that. You complained
- [25]

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F. Fiorillo

[1] about Walter Muller drinking and you've told
[2] me that you had to pull him out of a bar.
[3] What was the specific complaint that you
[4] made, unless it was just the fact that you
[5] had to pull him out of a bar while he was on
[6] duty?
[7] A: No. That I needed assistance on
[8] the call. It was just me and him that
[9] night.
[10] Q: It was you and Muller that night?
[11] A: That's it.
[12] Q: Okay. So let me go through this.
[13] It was you and Muller that night, and there
[14] was a call with regard to a possible drug
[15] overdose?
[16] A: Correct.
[17] Q: And —
[18] A: Doug Meyer was the kid.
[19] Q: Okay.
[20] A: Doug Meyer, Jr. I believe.
[21] Q: And what year was this?
[22] A: I can't recall exactly, but there
[23] is a field report on it.
[24] Q: Was it closer to the first day of

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F. Fiorillo

[1] your employment or closer to the last day?
[2] A: No. Closer to like in the
[3] middle. It wasn't towards the last.
[4] Q: So it was around 2003 or four?
[5] A: Yeah.
[6] Q: Okay. Fine. And what time —
[7] when was this? Was it in season or out of
[8] season?
[9] A: Um, I would say that based on
[10] that night, it was either right after the,
[11] you know, after Labor Day or the spring,
[12] because I remember — I think I remember it
[13] was a colder night. It wasn't — it wasn't
[14] — it was more desolate for sure. So it
[15] wasn't populated.
[16] Q: Okay. And you and Muller were
[17] the only people — the only officers on
[18] duty?
[19] A: Yes.
[20] Q: And it was a midnight to eight
[21] shift?
[22] A: No. It was the four to 12.
[23] Q: Four to 12. Okay. And was Hesse
[24] in the station that night?
[25]

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F. Fiorillo

[1] A: No. It was just — we were the
[2] only two officers.
[3] Q: Okay. And a call came in about a
[4] possible drug overdose, right?
[5] A: Right.
[6] Q: And where —
[7] A: Well, it wasn't possible drug
[8] overdose at the time. It was that he was —
[9] I got the call from his father that he was
[10] apparently ill. Very ill.
[11] Q: Fine. Where were you at the time
[12] that the call came in?
[13] A: I was patrolling the Village.
[14] Q: By yourself?
[15] A: Yes.
[16] Q: Where was Muller?
[17] A: He was in a bar.
[18] Q: Did you know that?
[19] A: I didn't know that. I didn't
[20] know where he was.
[21] Q: But you were the only two that
[22] were on duty that night, right?
[23] A: Yeah. Walter stayed in the
[24] station or I'll go in the truck or I'll stay
[25]

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F. Fiorillo

[1] in the station or we go together. It
[2] depends.
[3] Q: Okay.
[4] A: It's not a routine thing where,
[5] um, two guys stay in the truck. Sometimes
[6] there's three guys in the truck. It depends
[7] on the day, the time of the year. Sometimes
[8] there's no truck at all because it's
[9] populated, so everybody's on foot. Most
[10] people.
[11] Q: So if I understand what the
[12] common — the common practice was, and there
[13] may have been exceptions, and this night may
[14] have been one of them, if there were only
[15] two police officers on duty, one would be —
[16] one would be at the station and one would be
[17] patrolling?
[18] A: Sometimes.
[19] Q: Right.
[20] A: Like I said, there was no set —
[21] Q: Okay.
[22] A: You know, sometimes like somebody
[23] would want to stay at the station and handle
[24] the call from the station. Otherwise, the
[25]

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[1] *F. Fiorillo*
[2] phone was call forwarded when nobody was in
[3] the station.
[4] Q: Got it. Um, so the call came in
[5] and you did what right after you got the
[6] call?
[7] A: I responded to the call.
[8] Q: Did you try to get Walter Muller?
[9] A: I tried to get him on the radio.
[10] Q: That's what I'm asking you.
[11] A: Oh, yeah. Yeah.
[12] Q: So you called him on the radio
[13] and what happened?
[14] A: I got no response.
[15] Q: Okay. So what did you do after
[16] that?
[17] A: Continued to the call. I had an
[18] emergency.
[19] Q: That's fine. I'm just trying to
[20] figure out what you did. So you went to the
[21] call?
[22] A: Right.
[23] Q: And —
[24] A: I called for rescue.
[25] Q: Called for rescue. That wasn't

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[1] *F. Fiorillo*
[2] Muller, that was just rescue?
[3] A: What do you mean?
[4] Q: When you say you called for
[5] rescue, who comes?
[6] A: The Ocean Beach Fire Department.
[7] The rescue. The Ocean Beach —
[8] Q: Fine.
[9] A: — rescue.
[10] Q: And you went to the scene, right?
[11] A: Correct.
[12] Q: You did what you needed to do?
[13] A: Correct.
[14] Q: At some point in time you left
[15] the scene, right?
[16] A: Yeah. After the boy was attended
[17] to by the medical personnel, yes.
[18] Q: What did you do next?
[19] A: Um, I had all the information
[20] from the boy on where the party was that he
[21] — where he ingested — where they had this
[22] pot-laced brownies.
[23] Q: Okay.
[24] A: So with that, um, I came back to
[25] the station. The door was locked.

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[1] *F. Fiorillo*
[2] Q: Okay.
[3] A: I go across the street, Walter's
[4] in the bar.
[5] Q: Okay. And was Walter drunk, in
[6] your opinion?
[7] A: I didn't have a breathalyzer, so
[8] in my opinion, how could I —
[9] Q: I'm just asking you. I mean,
[10] you're a police officer. I would presume —
[11] A: Yeah. But you can't tell if
[12] somebody is legally drunk.
[13] Q: Okay.
[14] A: You can't tell that without
[15] having something to administer —
[16] Q: Fair enough. And where was
[17] Mr. Muller when you first saw him in the
[18] bar?
[19] A: At the bar. On the stool at the
[20] bar, drinking.
[21] Q: Drinking what?
[22] A: He told me what he was drinking.
[23] Q: What was he drinking?
[24] A: It was Captain Morgan's and Coke.
[25] Q: Okay. And so when you say you

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[1] *F. Fiorillo*
[2] dragged him out of the bar —
[3] A: I didn't drag him.
[4] Q: Well, those were your words.
[5] That's why I was asking you that.
[6] A: I said "drag"?
[7] Q: You said "drag."
[8] A: Okay. I told him I needed his
[9] assistance on a call.
[10] Q: Okay.
[11] A: To be fair.
[12] Q: And did he tell you to go "F off"
[13] or did he —
[14] A: No.
[15] Q: Well, I'm asking you. Or did he
[16] just go with you?
[17] A: No. He went with me.
[18] Q: Okay. And —
[19] A: He took his drink.
[20] Q: Okay. Good for him. Did, um,
[21] did you call Chief Paradiso up before the
[22] end of your shift to complain?
[23] A: No.
[24] Q: Did you call Chief Hesse up
[25] before the end of your shift to complain?

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[1] *F. Fiorillo*

[2] A: No.

[3] Q: When did you call Chief — when

[4] did you complain to Chief Hesse?

[5] A: I didn't say I complained to

[6] Chief Hesse.

[7] Q: I'm sorry, when did you complain

[8] to Chief Paridiso?

[9] A: It was my next tour.

[10] Q: Which was when?

[11] A: I don't know if it was the next

[12] day or the next time I saw the chief. See,

[13] it was — I think it was in the — either in

[14] the beginning of the season, like prior to

[15] Memorial Day or shortly thereafter. I'm not

[16] sure on the time period, but it was — it

[17] was the desolate part of the season on —

[18] which end I'm not sure.

[19] Q: Well, why did you wait until your

[20] next shift? Why didn't you just call him up

[21] the next day?

[22] A: Because I just brought it to his

[23] attention in person.

[24] Q: Okay. And what did you say to

[25] Chief Hesse — I mean Chief — what did you

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[1] *F. Fiorillo*

[2] say to Chief Paridiso, I'm sorry?

[3] A: I told him about what had

[4] happened.

[5] Q: And what was his reaction, if

[6] any?

[7] A: He — he didn't have a reaction.

[8] He just — I just told him the story and he,

[9] you know, he didn't have a reaction.

[10] Nothing that I could remember which was

[11] reactionary.

[12] Q: Did he just shrug his shoulders?

[13] A: I don't even know if he shrugged

[14] his shoulders. I think he just, you know,

[15] acknowledged what I told him and that's it.

[16] Q: Did you make this complaint to

[17] Mr. Hesse prior to you going to Chief

[18] Paridiso?

[19] A: No.

[20] Q: Why didn't you go to Mr. Hesse

[21] first, if any — if there was any reason?

[22] A: Because I had a problem with

[23] George Hesse and Walter Muller when I first

[24] started, um, working as a cop there, and

[25] there was a — they had a friendship and a

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[1] *F. Fiorillo*

[2] bond that was — they were close. They

[3] were close friends.

[4] Q: So you felt that it would not

[5] have been in your best interest to complain

[6] to Mr. Hesse about Mr. Muller?

[7] A: I felt that if I did complain to

[8] Hesse, that — you have to understand,

[9] there was an incident where he went off on

[10] me in front of other officers about Walter

[11] Muller and it was another situation where

[12] Walter Muller was drinking. So, in my mind,

[13] I was going to have a problem with Hesse in

[14] relation to Muller again, and I didn't want

[15] to lose my job as to be hon — exactly why I

[16] went to the chief.

[17] Q: And that's your testimony and

[18] that's fine. So I just — I'm just asking

[19] you a question. So you believed that had

[20] you complained to Hesse concerning Muller,

[21] that you — there may have been some

[22] ramifications for your job?

[23] A: Absolutely.

[24] Q: Right. And so you bypassed

[25] Mr. Hesse and you made your complaint to

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[1] *F. Fiorillo*

[2] Chief Paridiso?

[3] A: Correct.

[4] Q: Got it. And did Mr. Hesse ever

[5] prevent you from making any complaints to

[6] Mr. Paridiso concerning any issues at Ocean

[7] Beach?

[8] A: Not that I can recall.

[9] Q: All right. Did you ever feel

[10] intimidated by Mr. Hesse with regard to

[11] making a complaint to Mr. Paridiso?

[12] A: At times I did feel intimidated

[13] by — by George Hesse.

[14] Q: No, not intimidated by George

[15] Hesse. I'll rephrase the question. Did —

[16] did Mr. Hesse ever threaten you with any

[17] disciplinary action with regard to a

[18] complaint — withdrawn. Did Hesse ever

[19] threaten you with any type of disciplinary

[20] action with regard to making complaints to

[21] Chief Paridiso?

[22] A: Did he ever —

[23] Q: For example —

[24] A: — intimidate —

[25] Q: Okay. Withdrawn. Did Chief —

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[1] **F. Fiorillo**
[2] did Hesse ever say to you, in sum or
[3] substance, if you make any complaints to
[4] Chief Paridiso, you're going to lose your
[5] job?
[6] **A:** Not that I can recall.
[7] **Q:** Did Hesse ever say to you "if you
[8] make any complaints to Chief Paridiso, I'm
[9] going to put you on crappy shifts"?
[10] **A:** Not that I can recall.
[11] **Q:** Did Hesse ever say anything to
[12] you with regard to you making complaints to
[13] Paridiso?
[14] **A:** He said something about me, you
[15] know, crying to the chief.
[16] **Q:** What did he say?
[17] **A:** He said that in reference to, um,
[18] there was a filing cabinet incident —
[19] well, there was a filing cabinet.
[20] **Q:** Actually, I'm just interested
[21] in — and we'll get to why.
[22] **A:** Okay.
[23] **Q:** But I'm just interested in what
[24] did Hesse say to you with regard to, as you
[25] say, crying to the chief?

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[1] **F. Fiorillo**
[2] **A:** Well, it was in reference to
[3] these two things.
[4] **Q:** What — what did he specifically
[5] say to you? I'm looking for what his words
[6] were, in sum and substance. Right now I
[7] don't need the back story.
[8] **A:** Okay.
[9] **Q:** I just need to know what Hesse
[10] said to you with regard to crying to the
[11] chief.
[12] **A:** Like whenever there was something
[13] that I didn't like, I would go crying to the
[14] chief.
[15] **Q:** And when did he say that to you?
[16] **A:** He said that to me the day —
[17] the — it was a Saturday — let's see.
[18] I'll try to get the timeline. It was — it
[19] was after the night that he told me that he
[20] wanted the truck clean, because I went to
[21] the chief.
[22] **Q:** Okay. And what year was that?
[23] **A:** 2004.
[24] **Q:** Okay. And do you recall
[25] specifically what Mr. Hesse said to you,

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[1] **F. Fiorillo**
[2] other than just very generically crying to
[3] the chief? Did he say "I don't want you
[4] crying to the chief"?
[5] **A:** No. He just said that, you know,
[6] "whenever something like this happens, you
[7] always go crying to the chief."
[8] **Q:** Okay. Um, and was that the only
[9] time he ever used the expression "crying to
[10] the chief"?
[11] **A:** Well, as far as with me.
[12] **Q:** Yes. That's what I'm saying.
[13] All I'm asking is with you. That was the
[14] only time?
[15] **A:** That I could recall.
[16] **Q:** Okay. And on how many occasions
[17] did you complain to Paridiso about the
[18] Bosettis drinking?
[19] **A:** Numerous.
[20] **Q:** Okay. And — and —
[21] **A:** It was — it was an ongoing
[22] thing.
[23] **Q:** And at any point in time, were
[24] you satisfied that Chief Paridiso handled
[25] the situation concerning the Bosettis

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[1] **F. Fiorillo**
[2] drinking in the Village?
[3] **A:** Well, this is how it went.
[4] **Q:** No. My question is —
[5] **MR. GOODSTADT:** Well, he has to
[6] answer.
[7] **Q:** If you can't answer it yes or no,
[8] you can tell me. Yes or no —
[9] **A:** Okay.
[10] **Q:** Were you ever satisfied that in
[11] response to your —
[12] **A:** Only for —
[13] **Q:** In response to your complaint,
[14] Chief Paridiso addressed the situation
[15] concerning the Bosettis drinking in the
[16] Village?
[17] **A:** Only for a little while.
[18] **Q:** And when did that take place?
[19] What year?
[20] **A:** That was in — I'm pretty sure it
[21] was in 2004.
[22] **Q:** Now why in 2004 did you complain
[23] to Paridiso instead of just Mr. Hesse?
[24] **A:** Because that's what I was getting
[25] at before. Because — because George Hesse

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F. Fiorillo

[1] did not — he let these guys do whatever
[2] they wanted to do. He did not — what's the
[3] word? Supervise them, in my opinion,
[4] accordingly.

[5] Q: Would it be — would it be also
[6] fair to say that Chief Paridiso didn't
[7] supervise these guys accordingly?

[8] A: But you have to —

[9] Q: Mr. Fiorillo, yes or no? Would
[10] it be your opinion that Chief Paridiso also
[11] didn't supervise these gentlemen
[12] accordingly?

[13] MR. GOODSTADT: Answer the
[14] question the way you want.

[15] A: But he did. But the chief did —
[16] what I'm trying to say is, that's what I'm
[17] trying — I just want you to get the
[18] picture. The chief — what the chief did
[19] was he had the Bosettis for a little while
[20] not frequenting — frequenting the bars.

[21] Q: Okay.

[22] A: And Hesse was supposed to be in
[23] charge of overseeing that.

[24] Q: Okay.

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F. Fiorillo

[1] A: And then, but it didn't last
[2] long. If I — if I tell you it lasted a
[3] week, really, it lasted a week.

[4] Q: Now in 2004, did Hesse report to
[5] Paridiso or did Paridiso report to Hesse?

[6] A: In 2004, Hesse reported to
[7] Paridiso.

[8] Q: So would you agree with me
[9] that — that had Paridiso wanted to, he
[10] would have had the authority to fire the
[11] Bosettis?

[12] A: I don't know —

[13] MR. GOODSTADT: Objection.

[14] A: — who had the authority to hire
[15] and fire in Ocean Beach. I don't.

[16] Q: You don't know?

[17] A: Well, I don't know in that
[18] Village. It was — it was questionable as
[19] to how they hired and how they fired.

[20] Q: Who hired you?

[21] A: The Village of Ocean Beach.

[22] Q: Who — who told you that you were
[23] hired?

[24] A: I'm not so sure that anybody

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F. Fiorillo

[1] really told me specifically I was hired.
[2] But I had to go to the Village office and
[3] swear in.

[4] Q: Who interview — okay. Go
[5] ahead. I'm sorry.

[6] A: With I forget her name. Anyway,
[7] Baldar — Maryanne Baldaro. You would know.
[8] I don't know.

[9] MR. WELCH: Do you want her
[10] name?

[11] MR. NOVIKOFF: No. It's okay.

[12] A: I don't know. Something like to
[13] that — to that effect.

[14] Q: Who did you interview with before
[15] you got hired by Ocean Beach in 2002?

[16] A: Chief Paridiso.

[17] Q: Did you interview with Hesse?

[18] A: No.

[19] Q: Was it your belief, based upon
[20] your experience at Ocean Beach, that through
[21] 2002 through 2004 — from 2002 through 2004,
[22] that Chief Paridiso was the highest ranking
[23] officer, police officer at Ocean Beach?

[24] A: I believe so.

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F. Fiorillo

[1] Q: And would that answer be true for
[2] 2005?

[3] A: I don't know in all of 2005.

[4] Q: At any point in 2005?

[5] A: I'm sure at one point.

[6] Q: Okay. Now — and would you agree
[7] with me that you complained to Chief
[8] Paridiso about the Bosettis drinking because
[9] you were getting nowhere complaining to
[10] Mr. Hesse about that?

[11] A: It's not that I was getting
[12] nowhere complaining to Mr. Hesse about that.
[13] He wouldn't do anything about it anyway. He
[14] would actually be drinking with them.

[15] Q: And this started in 2002?

[16] A: Not initially. No.

[17] Q: How about 2003?

[18] A: No. No. No. The Bosettis
[19] drinking started in 2002.

[20] Q: And your complaints to Hesse
[21] started in 2002?

[22] A: Yes.

[23] Q: Okay. And let's talk about Hesse
[24] singling you out for cleaning. You used the

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[1] **F. Fiorillo**
[2] word "cleaning." When did that take place?
[3] **A:** That took place in 2004.
[4] **Q:** Okay. And what were you
[5] referring to?
[6] **A:** There was a particular point in
[7] time when it was a Friday night in the
[8] beginning of the season of 2004 and he
[9] called me about 3:30 in the morning. It was
[10] actually Saturday morning.
[11] **Q:** Okay.
[12] **A:** So it was 3:30 in the morning.
[13] He called me and he told me that he wanted
[14] the inside of the station cleaned out.
[15] **Q:** Um-hum.
[16] **A:** There was like old tires, filing
[17] cabinet, old uniforms.
[18] **Q:** Right.
[19] **A:** A lot of miscellaneous stuff.
[20] **Q:** Okay.
[21] **A:** You know, clutter. And — and —
[22] and Ocean Beach police files. You know.
[23] **Q:** Okay. And why did you think you
[24] were being singled out?
[25] **A:** Well, no. No. No. Not so much

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[1] **F. Fiorillo**
[2] this time. I mean, I did it. That was
[3] okay. I had no problem with that.
[4] **Q:** Okay.
[5] **A:** You know?
[6] **Q:** Well, I'm interested in the
[7] time —
[8] **A:** But there was — the very next
[9] night —
[10] **Q:** Okay.
[11] **A:** Okay? In other words —
[12] **Q:** You don't think you should have
[13] gone back to back nights cleaning?
[14] **A:** Well, it wasn't that. It was the
[15] purpose of cleaning. In other words, the —
[16] the glass on the vehicle had smoke — a
[17] smoke film.
[18] **Q:** Right.
[19] **A:** I don't smoke.
[20] **Q:** Okay.
[21] **A:** Okay. I think that after the
[22] night before and — what happened was this,
[23] I had — I worked the night before. I
[24] came — I came off duty. I went to court
[25] that morning. It was a Saturday morning.

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[1] **F. Fiorillo**
[2] So, um, you want me to explain this or you
[3] want to question me?
[4] **Q:** No. No. That's all right. I
[5] asked you.
[6] **A:** Okay. So this is what happened.
[7] I go to court. Coming back from court —
[8] **MR. GOODSTADT:** Go ahead.
[9] **THE WITNESS:** You want me to
[10] finish?
[11] **MR. GOODSTADT:** Yeah. I'm just
[12] laughing at Ken's comment.
[13] **THE WITNESS:** He's fine.
[14] **MR. GOODSTADT:** You're doing
[15] good.
[16] **A:** So I go to court. I'm coming
[17] back from court. Chuck that. I'm going to
[18] court, okay? One of the dock masters comes
[19] up to me and says there's a filing cabinet
[20] in the bay.
[21] **Q:** Okay.
[22] **A:** Okay? I said, "You got to be
[23] kidding me?" So I walked over there and I
[24] saw it. I said, "I can't do anything about
[25] it now." I said, "I gotta go to court." I

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[1] **F. Fiorillo**
[2] said, "Ronnie's at the desk. Have him get
[3] somebody from the Village to take care of
[4] this matter."
[5] **Q:** Okay.
[6] **A:** Okay? So I go to court. Finish
[7] my day in court. I'm coming back on Bay
[8] Walk and Richie Bosetti is in CJ's drinking
[9] a beer. He calls me from the — from CJ's.
[10] It's very close to the street, so I could
[11] see him. The doors are open. I can see
[12] him, he can see me. And he says "Frank, can
[13] you give me a hand?" I said, "With what?"
[14] And he said, "Me and my brother got drunk
[15] last night and we threw the filing cabinet
[16] in the bay." I said, "I'm not gonna touch
[17] that, Richie." I said, "You guys got
[18] yourself into it, you guys gotta get
[19] yourself out of it." I said, "I gotta go
[20] home, because I gotta come back to work
[21] tonight." So —
[22] **Q:** Go ahead.
[23] **A:** So I went into the station and I
[24] said, "Hey, chief, you're not gonna believe
[25] this." I said — and I told him. I told

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F. Fiorillo

[1] him the story. I said, "Richie pulls me
[2] aside over there and he says, you know, he
[3] needs help pulling the filing cabinet out of
[4] the bay because him and his brother got
[5] drunk last night," and he started laughing.
[6] Q: So if I understand what you just
[7] said, Richie Bosetti asked you for your
[8] assistance to help him pull a file cabinet
[9] out of the bay that he threw in with his
[10] brother, right?
[11] A: Him and his brother. Yeah.
[12] Q: Right. You said no?
[13] A: Right.
[14] Q: You said "you got yourself into
[15] this mess, you get yourself out." Okay. So
[16] you declined to help him out. And then you
[17] proceeded to go to Chief Paridiso and say
[18] "by the way, the Bosettis just asked me to
[19] help them pull the file cabinet out" —
[20] A: I didn't say "by the way." I
[21] said, "Chief, you're never gonna believe
[22] this."
[23] Q: Okay. And why did you feel the
[24] need to tell Chief Paridiso about this?
[25]

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F. Fiorillo

[1] A: It was a file cabinet with all
[2] the surveillance tapes.
[3] Q: How did you know it was all the
[4] surveillance tapes?
[5] A: Because I looked in the filing
[6] cabinet before I took it upstairs.
[7] Q: Oh, so you took the filing
[8] cabinet upstairs?
[9] A: From the station. Because the
[10] filing cabinet was in the station with all
[11] the other miscellaneous stuff. So —
[12] Q: And where did you put it?
[13] A: In the storage room in the — in
[14] the barracks.
[15] Q: Did you put it near a bed?
[16] A: No. I put it by the lockers.
[17] Q: Okay. So you then told Chief
[18] Paridiso "you're not going to believe this,
[19] but the Bosettis threw a filing cabinet"?
[20] A: In the bay.
[21] Q: And did you tell him that the
[22] video surveillance tapes were in the filing
[23] cabinet?
[24] A: Oh, he knew — chief — okay. I
[25]

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F. Fiorillo

[1] didn't tell him that.
[2] Q: Is it your belief that the chief
[3] knew that the video surveillance tapes were
[4] in the filing cabinet?
[5] A: Yes.
[6] Q: And it's your testimony that
[7] Chief Paridiso laughed when you told him
[8] that the Bosettis threw the filing cabinet
[9] into the bay?
[10] A: Well, he chuckled.
[11] Q: He chuckled. Did he say anything
[12] else other than chuckled?
[13] A: No. Because I had to go. So I
[14] just — I relayed the information, and it
[15] was up to him to do whatever he did.
[16] Q: You would agree with me that
[17] throwing a filing cabinet full of
[18] surveillance tapes is a pretty important
[19] thing to do, into the bay?
[20] A: I would agree with you on this.
[21] Q: Yes?
[22] A: Yes.
[23] Q: And you would think that the
[24] chief would be concerned about that?
[25]

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F. Fiorillo

[1] A: I would think so.
[2] Q: And are you aware of what, if
[3] anything, the chief did, other than chuckle?
[4] A: I don't know. I left.
[5] Q: Did you ever follow up?
[6] A: One of the —
[7] Q: I'm asking you. Did you ever
[8] follow up?
[9] A: Did I ever follow up personally?
[10] Q: Yeah. Right.
[11] A: No.
[12] Q: You felt it important enough —
[13] A: I heard what happened thereafter.
[14] I didn't follow up.
[15] Q: Okay. What happened? What did
[16] you hear happened thereafter?
[17] A: That — I don't know. I don't
[18] know who got Jonathan Bucksbaum to get a
[19] couple of lifeguards or something to pull
[20] the filing cabinet out of the bay, but
[21] that's what I heard. I never — I never
[22] heard, you know, anything else after that.
[23] Q: Did you follow up with Chief
[24] Paridiso as to what discipline, if any, he
[25]

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F. Fiorillo

[1] was going to give to the Bosettis for
[2] throwing the filing cabinet into the bay?
[3] **A:** Well, he obviously didn't fire
[4] them because they were still working.
[5] **Q:** I'm asking you if you followed up
[6] with Chief Paridiso?
[7] **A:** Why — why was I supposed to
[8] follow up?
[9] **Q:** Well —
[10] **A:** I left it in — I gave it — what
[11] I did was I — I brought — I brought it to
[12] his attention.
[13] **Q:** Okay.
[14] **A:** And then he's the chief. I mean,
[15] I'm — I'm just a cop under him, you know.
[16] He should follow — he should do what he
[17] has to do.
[18] **Q:** Did you ever inquire with anyone
[19] as to whether Chief Paridiso disciplined the
[20] Bosettis at all with regard to this
[21] incident?
[22] **A:** I just couldn't believe why —
[23] how they didn't get disciplined.
[24] **Q:** Well, my question to you is, did
[25]

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F. Fiorillo

[1] you ever follow up with Chief Paridiso —
[2] I'm sorry. Did you ever follow up with
[3] anyone with regard to whether or not the
[4] Bosettis were disciplined for this?
[5] **A:** No.
[6] **Q:** To your knowledge, were the
[7] Bosettis disciplined for this?
[8] **A:** Well, I don't know.
[9] **Q:** Okay.
[10] **A:** But they weren't fired and they
[11] weren't suspended, so — but I don't know
[12] when you say "disciplined," something else
[13] could have happened that I don't know.
[14] **Q:** But they weren't fired and they
[15] weren't suspended?
[16] **A:** Yes.
[17] **Q:** And it's your un — it is your
[18] testimony to a certainty that you told Chief
[19] Paridiso about this?
[20] **A:** Oh, absolutely.
[21] **Q:** No doubt in your mind?
[22] **A:** No doubt in my mind.
[23] **Q:** Okay. Let's talk about your
[24] complaint to Paridiso concerning your
[25]

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F. Fiorillo

[1] statement involving the Halloween incident.
[2] What did you specifically complain to
[3] Paridiso about?
[4] **A:** That George Hesse wanted me to
[5] change my statement.
[6] **Q:** And what did you — and when in
[7] relation to the Halloween incident did you
[8] tell Paridiso this?
[9] **A:** Shortly thereafter.
[10] **Q:** Days? Hours?
[11] **A:** Well, the next time —
[12] **Q:** Weeks?
[13] **A:** Let's see. The next time that I
[14] saw the chief in Ocean Beach, when I worked.
[15] I don't remember —
[16] **Q:** Okay.
[17] **A:** — the timeline. I don't
[18] remember which day I worked.
[19] **Q:** Okay. And what did you
[20] specifically, in sum and substance, tell —
[21] yeah, that was bad. What did you, in sum
[22] and substance, tell Paridiso about what
[23] Chief Hesse wanted you to do?
[24] **A:** He said that he wanted me to
[25]

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F. Fiorillo

[1] change the statement as far as the Halloween
[2] incident went.
[3] **Q:** Is that all you told Chief
[4] Paridiso or did you go into more detail as
[5] to what Hesse said?
[6] **A:** Hesse said that's not the way it
[7] happened.
[8] **Q:** And — and did you tell that to
[9] Paridiso?
[10] **A:** Yes.
[11] **Q:** Did you tell Paridiso anything
[12] else about what Hesse said? And the purpose
[13] of my question isn't trying to catch you. I
[14] really am just trying to find out what —
[15] everything that you said to Paridiso
[16] concerning your claim that Hesse wanted you
[17] to change the statement.
[18] **A:** Well, I'm telling you.
[19] **MR. GOODSTADT:** Objection.
[20] **Q:** So just tell me everything.
[21] **A:** Well, that was basically it.
[22] **Q:** All right.
[23] **A:** You know, I couldn't — what I
[24] said was, "I'm not going to change the
[25]

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[1] *F. Fiorillo*
[2] statement because that's the way it
[3] happened. I was there."
[4] Q: Okay. But you didn't witness the
[5] fight?
[6] A: I didn't put that in my
[7] statement.
[8] Q: I understand. But my question
[9] is, you didn't witness the fight?
[10] A: No.
[11] Q: So you told Paridiso — and if
[12] I'm wrong, tell me, or if I mischaracterize
[13] your testimony, tell me — that Hesse wanted
[14] you to change your statement because,
[15] according to Hesse, that's not the way it
[16] happened?
[17] A: Correct.
[18] Q: And you told Hesse that you
[19] wouldn't?
[20] A: I told him I wouldn't.
[21] Q: Okay. And then — and you told
[22] Paridiso that you told Hesse that you
[23] wouldn't?
[24] A: Correct.
[25] Q: Why did you feel the need to

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[1] *F. Fiorillo*
[2] complain to Paridiso if you had already told
[3] Hesse that you wouldn't do it?
[4] A: Because I think that he should
[5] have been aware of what I was going through
[6] on my end as being a cop who was on the
[7] scene and having — what happened was
[8] George started an investigation, and all of
[9] a sudden our statements were no good, okay?
[10] He had Pat Cherry and himself or Pat Cherry
[11] was the lead investigator on the Halloween
[12] incident.
[13] MO Q. Okay. But, sir, I'm concerned
[14] not so much with what Hesse did — and I'm
[15] going to move to strike —
[16] A: Well —
[17] Q: — with regard to the
[18] investigation. I'm asking you about what
[19] Hesse said to you specifically.
[20] A: That's what I was getting to.
[21] Q: Well, then let's get to that.
[22] What did Hesse specifically say to you with
[23] regard to your statement?
[24] A: That my statement was not the way
[25] it happened.

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[1] *F. Fiorillo*
[2] Q: Okay. And then —
[3] A: And neither was Tommy's
[4] statement, because he showed me Tommy's
[5] statement.
[6] Q: Okay. And he wanted you to
[7] change it?
[8] A: Yes.
[9] Q: And you said to Hesse "no"?
[10] A: "No."
[11] MR. NOVIKOFF: All right. Then
[12] we'll pick up with this when we change
[13] the tape.
[14] THE VIDEOGRAPHER: This ends
[15] tape number three. The time is 2:17
[16] p.m. Off the record.
[17] (A break was taken.)
[18] THE VIDEOGRAPHER: This begins
[19] tape number four. The time is 2:29
[20] p.m. Back on the record.
[21] Q: Sir, right after the answer to
[22] the last question, I don't know if the
[23] videographer or the court reporter got this,
[24] but you seemed that you wanted to say
[25] something else or clarify what your

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[1] *F. Fiorillo*
[2] testimony was. So why don't you tell me
[3] what you wanted to say?
[4] A: I need you to ask me the question
[5] again and I can just answer it correctly. I
[6] don't think it sounded like I said "no"
[7] meaning no or "no" agreeing with you. I
[8] want to get that clear.
[9] MR. NOVIKOFF: Okay. So let me
[10] look at the court reporter's transcript
[11] and see if I can get the question for
[12] you. (Reviewing).
[13] A: It might be clear, but it sounded
[14] like it wasn't clear.
[15] Q: I asked you "Okay. And he wanted
[16] you to change it?" You answered, "Yes." My
[17] question was, "And you said to Hesse "no"?
[18] Answer, "No." So let me ask you this. When
[19] Hesse asked you to change your statement,
[20] what did you say to Hesse, if anything?
[21] A: "No."
[22] Q: Okay. Now did Hesse ask you —
[23] did Hesse use the words "falsify" in
[24] relation to changing your statement?
[25] A: I don't recall.

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[1] *F. Fiorillo*
[2] Q: Did he say to you "I want you to
[3] lie in your statement?"
[4] A: I don't recall.
[5] Q: You don't recall? Wouldn't — is
[6] that — wouldn't you think that was
[7] important?
[8] MR. GOODSTADT: Objection.
[9] Q: With regard to this incident as
[10] to whether or not Hesse used the word "lie"
[11] or "falsify" with regard —
[12] A: I don't recall him saying that.
[13] Q: Oh, okay. So your answer is "no,
[14] I don't recall him saying that?"
[15] A: Yes.
[16] Q: Okay. And all you can recall
[17] Hesse saying is simply "I want you to change
[18] your statement because that's not the way it
[19] happened?"
[20] A: Right.
[21] Q: And you were upset because —
[22] A: I said, "I was there and this is
[23] what happened."
[24] Q: Okay. And Hesse said what, if
[25] anything, in response to that?

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[1] *F. Fiorillo*
[2] A: He just was adamant that that's
[3] not the way it happened.
[4] Q: Okay. When you say he was
[5] adamant, was he throwing a chair around the
[6] room? Was he screaming?
[7] A: No. But he — he has a tendency
[8] to raise his voice when he gets, you know,
[9] boisterous.
[10] Q: Okay. So when you said "no" to
[11] him and you explained why, what did he say
[12] in a raised voice?
[13] A: He said, "That's not the way it
[14] happened." But it wasn't just directed
[15] towards my statement. It was directed to
[16] all of our — the three of us.
[17] Q: No. I understand that. But you
[18] were in the room, right?
[19] A: Absolutely.
[20] Q: Nofi wasn't in the room?
[21] A: No. Nofi — no. Joe was —
[22] Q: I'm sorry, Lamm wasn't in the
[23] room with you?
[24] A: No.
[25] Q: And who else was on duty that

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[1] *F. Fiorillo*
[2] night, Carter or Snyder?
[3] A: Tommy Snyder.
[4] Q: Okay. Snyder wasn't in the room
[5] with you with Hesse, was he?
[6] A: No. It was just me.
[7] Q: Okay. So I'm just trying to
[8] figure out, what else did Hesse say to you,
[9] if anything, in that meeting after you told
[10] him that no, you weren't going to change
[11] your statement?
[12] A: That's just what I can recall —
[13] Q: Okay.
[14] A: — that happened.
[15] Q: And the only thing that you can
[16] recall that you said is what you just
[17] testified to, correct?
[18] A: Exactly.
[19] Q: Okay. And then you went to
[20] complain to Paridiso about this?
[21] A: Correct.
[22] Q: And that was the next time you
[23] had a shift?
[24] A: Yes.
[25] Q: Okay. And you don't recall how

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[1] *F. Fiorillo*
[2] long the period of time was?
[3] A: It could have been the following
[4] weekend. I'm not sure. I — I don't want
[5] to guess.
[6] Q: And what did Paridiso say, if
[7] anything, to you when you complained?
[8] A: He said he was going to talk to
[9] George about it because Cherry was taking,
[10] um, witness statements.
[11] Q: Okay. Did Paridiso say anything
[12] else?
[13] A: That's it.
[14] Q: Okay. And did you ever follow up
[15] with Paridiso after that to see if he did
[16] talk to Hesse?
[17] A: Well, I think that he would have
[18] came back to me and said something, if
[19] anything.
[20] Q: No. My question is did you —
[21] A: Oh, no.
[22] Q: — follow up with Paridiso?
[23] A: I didn't follow — I didn't
[24] follow up with him.
[25] Q: And did Paridiso advise you after

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F. Fiorillo

[1] that conversation with you that he had
[2] spoken to Hesse about your Complaint?
[3] A: No.
[4] Q: Okay. And let's see. And you
[5] have now testified to the entirety of your
[6] recollection concerning your conversation
[7] with Paridiso when you complained about
[8] Hesse wanting you to change your statement;
[9] is that correct?
[10] A: Yes.
[11] Q: You can't think of anything else
[12] that was said between you and Paridiso?
[13] A: As far as the Halloween fight
[14] or —
[15] Q: As far as your complaint to him
[16] that Hesse wanted you to change your
[17] statement?
[18] A: Only on the statement, yeah.
[19] That that was probably —
[20] Q: Right.
[21] A: — everything.
[22] Q: Okay. And after Hesse asked you
[23] to change your statement, did you have any
[24] other communications with Hesse concerning
[25]

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F. Fiorillo

[1] anything involving your investigation that
[2] night?
[3] A: Later on, you know, months —
[4] months after that.
[5] Q: Yeah.
[6] A: Yes.
[7] Q: What did he say?
[8] A: He said that, um — well, it's
[9] not so much what he said. It's what —
[10] what he did and what he showed me. In other
[11] words, you want me to explain?
[12] Q: Sure.
[13] A: Okay. What happened was later on
[14] in 2005, he and Pat Cherry got a hold of
[15] me — when I say "got a hold of me," they
[16] asked me to come into the station into
[17] the — by George's desk and sit down and
[18] they handed me a file. And George said,
[19] "Now you know how it happened because this
[20] is how it really happened." And he gave me
[21] the file, and he goes, "I want you to read
[22] these statements, because this man right
[23] here went out of his way to get all the
[24] statements, and this is what happened that
[25]

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F. Fiorillo

[1] night." So I had to sit there and read all
[2] these witness statements.
[3] Q: Okay. And did you say anything
[4] to Hesse while you were reading the witness
[5] statements?
[6] A: Not while. After.
[7] Q: Did you say anything to Hesse
[8] after —
[9] A: Yes.
[10] Q: — you read the statements? What
[11] did you say?
[12] A: I said, "That's not the way it
[13] happened." I said — this is what I said.
[14] I said, "From what I got that night, my
[15] statement reflects what happened when I got
[16] on the scene."
[17] Q: And your statement reflected what
[18] the three alleged victims of Gary Bosetti's
[19] pool swinging said, right?
[20] A: Well, not so much that. What I
[21] observed.
[22] Q: Well, you didn't observe the
[23] fight, correct?
[24] A: No. No. No. What I observed
[25]

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F. Fiorillo

[1] when I arrived on the scene.
[2] Q: Right.
[3] A: My statement had, you know, a
[4] synopsis of what actually I saw.
[5] Q: Okay. But I just — I just need
[6] to clarify and I think the jury needs to
[7] have an understanding, you weren't at the
[8] scene at the time of the fight?
[9] A: No.
[10] Q: You came in after the fight was
[11] over?
[12] A: Correct.
[13] Q: And you made a statement,
[14] correct?
[15] A: Correct.
[16] Q: And you didn't talk to Richard
[17] Bosetti about anything that he may have
[18] observed, correct?
[19] MR. GOODSTADT: Objection.
[20] A: No. Well —
[21] Q: Well, did you — did you put in
[22] your statement anything that Richard Bosetti
[23] said to you?
[24] A: No.
[25]

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F. Fiorillo

[1]
[2] Q: Did you put in your statement
[3] anything that Gary Bosetti may have said to
[4] you?
[5] A: No.
[6] Q: In fact, you didn't speak to Gary
[7] Bosetti that night about the events, did
[8] you?
[9] A: No.
[10] Q: And you didn't speak to Richard
[11] Bosetti about what he observed that night,
[12] did you?
[13] A: No.
[14] Q: Okay. So we've established that
[15] you didn't speak to Richard Bosetti and you
[16] didn't speak to Gary Bosetti.
[17] A: I was on — okay.
[18] Q: And you didn't speak to, um —
[19] you know what, let me go through. You
[20] didn't speak to Bud Jaegger that night, did
[21] you?
[22] A: I don't even know who Bud Jaegger
[23] is.
[24] Q: But that was one of the
[25] statements that you read, correct?

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F. Fiorillo

[1]
[2] A: Yes.
[3] Q: You didn't speak to Jeannie
[4] Jaegger that night, did you? Right?
[5] A: No.
[6] Q: And you are aware, at least now,
[7] that Jeannie Jaegger is the woman that says
[8] she was being choked by one of the three
[9] individuals that went to the police station
[10] that night?
[11] A: I'm aware of that. I don't —
[12] Q: I'm not suggesting you can verify
[13] it. I'm not suggesting you saw it.
[14] A: I'm aware of that.
[15] Q: You're aware of that by virtue of
[16] reading —
[17] A: One of the statements.
[18] Q: Right. You didn't talk to Ian
[19] Levine that night, did you?
[20] A: Yes, I did.
[21] Q: You did? And what did Ian Levine
[22] say to you that night?
[23] A: Well, it's what I asked him. I
[24] said, "Ian, what did you — what happened
[25] here?" He goes, "I don't know." He was

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F. Fiorillo

[1]
[2] walking out of the bar.
[3] Q: Okay.
[4] A: Because I was on the outside. I
[5] wasn't inside.
[6] Q: Then Ian Levine put in a
[7] statement, correct?
[8] A: He didn't put in a statement that
[9] he spoke to me.
[10] Q: No. He put in a statement
[11] concerning the occurrence?
[12] A: Oh, yeah. Yeah.
[13] Q: And let's see. Who else? Shawn
[14] O'Rourke, did you take a statement of Shawn
[15] O'Rourke that night?
[16] A: No. He was inside the bar.
[17] Q: Right. And he put in a statement
[18] that you read, right?
[19] A: Yes.
[20] Q: Okay. So you have no knowledge
[21] one way or the other as to whether Shawn
[22] O'Rourke was telling the truth in his
[23] statement?
[24] A: Do I have any knowledge if he was
[25] or not?

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F. Fiorillo

[1]
[2] Q: Right.
[3] A: I have no knowledge.
[4] Q: And you have no knowledge one way
[5] or the other as to whether Jeannie Jaegger
[6] was telling the truth?
[7] A: No knowledge.
[8] Q: And you have no knowledge as to
[9] whether Bud Jaegger was telling the truth,
[10] correct?
[11] A: No knowledge.
[12] Q: And you have no knowledge as to
[13] whether Ian Levine was telling the truth?
[14] A: Correct.
[15] Q: Right. Danny McKenna, was he the
[16] bartender that night?
[17] A: I didn't go in the bar. I don't
[18] know.
[19] Q: So you have — you have no
[20] knowledge who the bartender was that night?
[21] A: I didn't go in the bar.
[22] Q: Do you know if Lamm went in the
[23] bar?
[24] A: Yes, he did.
[25] Q: Did Lamm ever advise you who the

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F. Fiorillo

[1] bartender was?
[2] A: I think — I think he did say
[3] that — but you were asking me if I knew.
[4] Q: That's right. And you said you
[5] didn't know. And now I'm asking —
[6] A: Lamm told me afterwards that
[7] Danny McKenna was the bartender in the bar.
[8] Q: Afterwards that night or
[9] afterwards the next day or the next —
[10] A: No. No. That night.
[11] Q: Did you ever seek out Danny
[12] McKenna to get a statement from him that
[13] night?
[14] A: No. I wasn't in the bar.
[15] Q: No. I understand that.
[16] A: I don't know what they — what
[17] they did in the bar. I didn't —
[18] Q: Sir, did you — did you
[19] personally ever seek out Danny McKenna that
[20] night to get a statement from him?
[21] A: No. I didn't know at that — at
[22] that time that Danny McKenna was involved in
[23] any —
[24] Q: Well, Mr. Lamm told you at some
[25]

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F. Fiorillo

[1] point in time that evening that Dan McKenna
[2] was —
[3] A: Later on, yeah. After —
[4] Q: In the evening? In the early
[5] morning?
[6] A: In the morning, yeah.
[7] Q: Right. Before you left your
[8] shift?
[9] A: Yes.
[10] Q: So before you left your shift
[11] that night, you knew that Danny McKenna was
[12] the bartender, right, from Mr. Lamm?
[13] A: I'm trying to think of the
[14] timeline. We — we never discussed who the
[15] bartender was shortly thereafter because we
[16] were tending to the victims. So I don't
[17] know when that came — when that actual
[18] statement came up that Danny McKenna was the
[19] bartender. I don't know.
[20] Q: Oh, so it could have been not
[21] that morning, but after your shift ended, is
[22] that what you're saying?
[23] A: I can't recall that particular —
[24] you know what it was, it didn't — I was on
[25]

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F. Fiorillo

[1] the outside and I didn't know who was in the
[2] inside. I didn't know who was tending bar.
[3] I didn't know that. I didn't — I didn't
[4] visualize it. I didn't have it in my head
[5] who was —
[6] Q: Did you ask at any point in time
[7] prior to you leaving the island at the end
[8] of your shift, who the bartender was that
[9] night?
[10] A: No. I didn't do that.
[11] Q: Did you know — did you ever take
[12] a statement from Doug Wyckoff that night?
[13] A: No.
[14] Q: Were you aware that Doug Wyckoff
[15] was a witness?
[16] A: In the witness statement.
[17] Q: Right.
[18] A: Yes.
[19] Q: Are you aware now that Doug
[20] Wyckoff said he was a witness to the events
[21] that night?
[22] A: Yes. Yes.
[23] Q: Were you aware that night?
[24] A: No.
[25]

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F. Fiorillo

[1] Q: And like you would have no
[2] knowledge one way or the other as to whether
[3] or not Doug Wyckoff was truthful in his
[4] witness statement, correct?
[5] A: I would have no knowledge of
[6] that.
[7] Q: How about Elyse Miller, did you
[8] speak to Elyse Miller that night?
[9] A: No. At that night, yes. Earlier
[10] in the evening.
[11] Q: But after the incident?
[12] A: No.
[13] Q: You saw Elyse Miller's statement
[14] when George Hesse gave you the —
[15] A: Yes.
[16] Q: Right. And do you have any
[17] reason to know one way or the other as to
[18] whether Elyse Miller was telling the truth?
[19] A: No.
[20] Q: And you've alleged a cover up of
[21] the incident, correct?
[22] A: Yes.
[23] Q: So if I understand your
[24] allegations correctly, in order for there to
[25]

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F. Fiorillo

[1] have been a cover up, Richard Bosetti, Gary
[2] Bosetti, Elyse Miller, Doug Wyckoff, Ian
[3] Levine, Bud Jaegger, Bud Jaegger's wife and
[4] everyone else that gave a witness statement
[5] that night, other than the alleged victims,
[6] were lying?
[7] A: I didn't say they were lying.
[8] Q: Well, sir —
[9] A: You've just established that I
[10] had no knowledge if they were telling the
[11] truth or not.
[12] Q: But, sir, here's my question to
[13] you. You're alleging a cover up, right?
[14] A: Yes.
[15] Q: What is your understanding of
[16] what the concept of a cover up means?
[17] A: Okay.
[18] Q: Generically. Not as it pertains
[19] to the Halloween incident. Generically.
[20] A: Generically, something that
[21] happened that was altered to view — to
[22] have looked like it happened in another
[23] manner.
[24] Q: Okay. Got it. So if I

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F. Fiorillo

[1] understand your allegations correctly, you
[2] are alleging that the Ocean Beach Police
[3] Department covered up the Halloween
[4] incident, correct?
[5] A: Yes.
[6] Q: And that George Hesse was a
[7] participant in this cover up?
[8] A: Yes.
[9] Q: And the cover up was for the
[10] purpose of benefitting Gary Bosetti?
[11] A: Well, I don't know if that was
[12] the whole purpose.
[13] Q: Well, what was the purpose of the
[14] cover up to your — based upon your
[15] allegations?
[16] A: Not to have Gary Bosetti fired.
[17] Q: Okay.
[18] A: To clear him of any criminal
[19] charges.
[20] Q: Right.
[21] A: It essentially, you know, made
[22] Hesse — he tried to make himself look like
[23] he was conducting an investigation that we
[24] handled that made him look like we didn't do

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F. Fiorillo

[1] our job correctly.
[2] Q: Okay. Okay. Anything else?
[3] A: Um, well, sure. Because Gary
[4] Bosetti was the person who was involved in
[5] the fight.
[6] Q: Right.
[7] A: And he wound up being the
[8] arresting officer, and he left the scene.
[9] Q: Okay. So you've —
[10] A: So sure.
[11] Q: You've just told me what you
[12] believed the purpose of the cover up was?
[13] A: Correct.
[14] Q: I'm not fighting you on that. I
[15] just wanted to know what you thought. So
[16] given what you've now testified to was the
[17] purpose of the cover up, and you've defined
[18] for the jury what your understanding of what
[19] a cover up is, Bud Jaegger would have been a
[20] participant in this cover up because he gave
[21] a statement, correct?
[22] A: I don't know if Bud Jaegger was
[23] there or not. I didn't take —
[24] Q: But in order for your cover up

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F. Fiorillo

[1] allegation to — to be accurate, you would
[2] agree with me that Bud Jaegger would have
[3] had to have lied in his witness statement —
[4] MR. GOODSTADT: Objection.
[5] Q: — that you read, correct?
[6] A: I can't say that he lied. You
[7] know —
[8] Q: You would have to agree with me
[9] that Jeannie Jaegger was lying in her
[10] witness statement, right?
[11] MR. GOODSTADT: Objection.
[12] Q: Well, let me state it a different
[13] way. If all of the individuals who gave
[14] witness statements were telling the truth,
[15] putting aside Gary Bosetti and Richard
[16] Bosetti.
[17] A: Okay.
[18] Q: All the civilians.
[19] A: Okay.
[20] Q: Would you still agree that there
[21] was a cover up to protect Gary Bosetti?
[22] A: Absolutely.
[23] Q: How do you explain that?
[24] A: They were all drinking buddies.

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[1] *F. Fiorillo*
[2] Every single one of them.
[3] Q: The civilians you're talking
[4] about?
[5] A: They're all civilians.
[6] Q: So you're suggesting that the
[7] civilians were lying to protect Gary
[8] Bosetti?
[9] A: Yes.
[10] Q: Right. That's — that's what I'm
[11] trying to find out.
[12] A: Okay. I'm sorry.
[13] Q: So you — it would be your belief
[14] that Bud Jaegger was lying in his witness
[15] statement?
[16] A: Yes.
[17] Q: It would be your belief that
[18] Jeannie Jaegger was lying in her witness —
[19] A: Yes.
[20] Q: — statement? Let me finish. It
[21] would be your belief that Ian Levine was
[22] lying in his witness statement, correct?
[23] A: Yes.
[24] Q: It would be your belief that Doug
[25] Wyckoff was lying in his witness statement?

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[1] *F. Fiorillo*
[2] A: Yes.
[3] Q: It would be your belief that
[4] Elyse Miller was lying in her witness
[5] statement?
[6] A: Yes.
[7] Q: It would be your belief that
[8] Shawn O'Rourke was lying in his witness
[9] statement?
[10] A: Yes.
[11] Q: It would be your belief that
[12] Richard Bosetti was lying in his statement?
[13] A: Yes.
[14] Q: It would be your belief that
[15] whatever statement Gary Bosetti gave, he was
[16] lying?
[17] A: Yes.
[18] Q: Okay. And it would be your
[19] contention that all of the civilians,
[20] putting aside the Bosettis, that lied in
[21] their witness statements, subjecting
[22] themselves to potential criminal penalty,
[23] lied because they were drinking buddies with
[24] the Bosettis?
[25] A: Absolutely.

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[1] *F. Fiorillo*
[2] Q: Okay. And what about the
[3] prosecutor in this case — withdrawn. Are
[4] you aware that Mr. Vankoot pled guilty to a
[5] crime as it relates to this incident?
[6] A: Yes.
[7] Q: What is your understanding with
[8] regard to what Mr. Vankoot pled guilty to?
[9] A: I don't exactly know what the
[10] deal was. They — they had a plea deal.
[11] Q: Right. Is it your belief that
[12] the prosecutor that day for the Village was
[13] in on the cover up, since he prosecuted
[14] Mr. Vankoot?
[15] A: I have no knowledge of that.
[16] Q: Okay. Is it your contention that
[17] the judge, Mr. Wexler, was in on the cover
[18] up that day because he accepted the plea of
[19] guilty by Brian Vankoot?
[20] A: I have no knowledge of that.
[21] Q: Are you aware that Mr. Wexler is
[22] the son of Judge Wexler in the federal court
[23] in which this lawsuit is being filed?
[24] A: I have no knowledge of that.
[25] Q: Are you alleging that Brian

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[1] *F. Fiorillo*
[2] Vankoot, when he allocuted, when he stated
[3] on the record what he did that night that
[4] formed the basis of his plea of guilty, was
[5] lying to the judge?
[6] A: Do you want me to —
[7] Q: I'm asking you your belief, sir.
[8] A: I don't — can you rephrase that
[9] question?
[10] Q: Sure. I'll break it down even
[11] simpler. At least I'll try to break it down
[12] more simply. Brian Vankoot told you or told
[13] Mr. Lamm or told Mr. Snyder that night that
[14] he was attacked by Gary Bosetti, correct?
[15] A: We didn't know who he was
[16] attacked by.
[17] Q: He was attacked by someone saying
[18] that they were a police officer?
[19] A: Right. But we didn't know who he
[20] was attacked by at the time.
[21] Q: That's fine. Mr. Vankoot advised
[22] you and the other officers that he was
[23] attacked by someone who claimed that they
[24] were — he was a police officer, correct?
[25] A: Correct.

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[1] *F. Fiorillo*
[2] **Q:** Okay. He did not state to you
[3] that he started the fight, correct?
[4] **A:** Correct.
[5] **Q:** He didn't tell you that he kicked
[6] the person who was claiming to be a police
[7] officer, correct?
[8] **A:** Correct.
[9] **Q:** In fact, if I recall correctly,
[10] all Mr. Vankoot told you was that he was
[11] attacked by someone who was a police officer
[12] and he was knocked unconscious?
[13] **A:** Correct.
[14] **Q:** At no point in time did
[15] Mr. Vankoot ever tell you or any of the
[16] other two officers that he struck any person
[17] identifying himself as a police officer that
[18] night, correct?
[19] **A:** Correct.
[20] **Q:** Okay. Now Mr. Vankoot, within
[21] the next two to three months, pled guilty to
[22] striking an individual that night. Do you
[23] have that understanding?
[24] **A:** Yes.
[25] **Q:** Okay. So would you agree with me

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[1] *F. Fiorillo*
[2] that either Mr. Vankoot was lying to you the
[3] night of the Halloween incident or he was
[4] lying to the judge at the time he took the
[5] plea?
[6] **MR. GOODSTADT:** Objection.
[7] **A:** I can't agree with you on that.
[8] **Q:** Why not? How could Mr. Vankoot
[9] have been telling the truth the night of the
[10] Halloween incident when he told you that he
[11] did nothing in terms of striking this
[12] individual, but when he pled guilty, he
[13] admitted to striking that individual?
[14] **MR. GOODSTADT:** Objection.
[15] **Q:** How can you reconcile those two
[16] statements? You're a police officer, you've
[17] done investigations, right?
[18] **A:** Yes.
[19] **Q:** If someone told you on day one
[20] that the sky was blue, and then told you on
[21] day 10 that the sky was black, wouldn't you
[22] agree with me that either they were wrong on
[23] day one or they were wrong on day 10?
[24] **MR. GOODSTADT:** Objection.
[25] **A:** I don't know how to answer that

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[1] *F. Fiorillo*
[2] question based on the Brian Vankoot pleading
[3] guilty.
[4] **Q:** I'm not asking you now about
[5] Brian Vankoot. I'm saying you're a police
[6] officer, sir, right? Or you were at least?
[7] **A:** I'm a fired police officer.
[8] **Q:** Right. But you were a police
[9] officer, right?
[10] **A:** Yes.
[11] **Q:** And you believe you had the
[12] experience to do investigations, right?
[13] **A:** Yes.
[14] **Q:** And you would agree with me that
[15] you had at least a sufficient education and
[16] experience to ask questions and receive
[17] information, right?
[18] **A:** Yes.
[19] **Q:** So, if one — let's assume on day
[20] one of your investigation an individual
[21] tells you that he was hit with a bat, right?
[22] **A:** Right.
[23] **Q:** And then on day 10 he tells
[24] someone else "no, I wasn't hit with a bat,
[25] in fact, I hit that person with a bat," you

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[1] *F. Fiorillo*
[2] would agree with me that those are two
[3] completely different stories, correct?
[4] **MR. GOODSTADT:** Objection.
[5] **A:** Absolutely.
[6] **MR. GOODSTADT:** Objection.
[7] **Q:** Okay. So you would also agree
[8] with me, sir, that either that person was
[9] lying on day one or he was lying on day 10,
[10] correct?
[11] **MR. GOODSTADT:** Objection.
[12] **Q:** Given your experience?
[13] **A:** I can't say that because that —
[14] there were circumstances involved in — in
[15] Brian Vankoot's situation, I was there.
[16] **Q:** What were the circumstances that
[17] would have caused Mr. Vankoot to tell you
[18] that he was attacked on that night, but then
[19] in front of the judge, tell the judge that
[20] he was the one that hit the individual?
[21] **A:** Brian Vankoot did not want to
[22] plead guilty that day.
[23] **Q:** How do you know that?
[24] **A:** I was standing right next to him.
[25] **Q:** Did you talk to Brian Vankoot?

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[1] *F. Fiorillo*
[2] A: I didn't talk to him.
[3] Q: Did he ever tell you before that
[4] that he didn't want to plead guilty?
[5] A: Yes. He, told — well, not me.
[6] No.
[7] Q: I'm talking to you. Did he ever
[8] tell you —
[9] A: Not to me.
[10] Q: — that he wanted — he didn't
[11] want to plead guilty?
[12] A: Not to me.
[13] Q: So then what you're telling me is
[14] when he pled guilty that day in court, he
[15] was in fact lying to the court about the
[16] events of that evening?
[17] MR. GOODSTADT: Objection.
[18] Q: Would you agree with me, sir?
[19] A: I can't say that because that's
[20] not the way — I mean, it's easy for you to
[21] say that, but I was in the room.
[22] Q: Did he state to the judge what
[23] went on that night in his own words? You
[24] were there?
[25] A: I was there.

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[1] *F. Fiorillo*
[2] Q: Sir —
[3] A: But he was very reluctant.
[4] Q: Sir, I'm not asking about his
[5] reluctance. Yes or no, did he stand up and
[6] tell the judge what he — what occurred
[7] that night before he accepted the plea of
[8] guilty?
[9] MR. GOODSTADT: Objection.
[10] Answer it the way you need to answer
[11] it, and make your motion to strike if
[12] you need to make a motion to strike.
[13] Q: Do you want me to ask the
[14] question again?
[15] A: No. But I want to answer it
[16] truthfully.
[17] Q: Well, I'm asking the question.
[18] Did Mr. Vankoot stand up and speak to the
[19] judge and tell the judge what went on that
[20] night as it pertains to him?
[21] A: Well, he actually — he — what
[22] happened was he backed off from talking to
[23] the judge because he told his lawyer that he
[24] wasn't going to plead guilty. He didn't
[25] want to plead guilty.

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[1] *F. Fiorillo*
[2] Q: And you heard this?
[3] A: Yes.
[4] Q: How did you hear this?
[5] A: I was right next to him.
[6] Q: You were in the well when he was
[7] being —
[8] A: No. It's the courtroom.
[9] Q: You were standing right next to
[10] him?
[11] A: In the Ocean Beach Village Court,
[12] the judge is — is up on top and he was
[13] with his lawyer. We were situated right on
[14] the floor. Not in the well. It's not —
[15] it's not like you think like in a formal
[16] trial as in a big court.
[17] Q: And so my question is, now that
[18] you said what you wanted to say, did
[19] Mr. Vankoot stand up and talk to the judge
[20] about what went on?
[21] A: There were things going back and
[22] forth with the judge and his lawyer and him
[23] and his lawyer and it was —
[24] Q: At any point in time, sir —
[25] A: He did talk to the judge.

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[1] *F. Fiorillo*
[2] Q: Thank you. Did — isn't it true,
[3] sir, that he told the judge that he kicked a
[4] person now known to be Gary Bosetti?
[5] A: I don't know if — I don't
[6] recall his whole testimony because —
[7] Q: Well, what do you recall, sir?
[8] You were standing there. You recall
[9] specifically that he didn't want to take the
[10] plea. So are you telling the jury that you
[11] remembered that, but you don't remember what
[12] Mr. Vankoot said?
[13] A: Well, that stuck out in my mind.
[14] I'm telling you the truth. I don't know —
[15] it was going back and forth from the judge
[16] to the lawyer, from the lawyer to the judge
[17] to Vankoot. It was — it wasn't cut and
[18] dry plead guilty and case over. It
[19] wasn't — it didn't go down like that.
[20] Q: But he did plead guilty?
[21] A: Ultimately he did.
[22] Q: He pled guilty to striking Gary
[23] Bosetti?
[24] A: I don't know what — the plea
[25] deal.

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[1] *F. Fiorillo*
[2] Q: No. I'm not asking about —
[3] A: I don't know what he pled guilty
[4] to exactly. I don't.
[5] Q: Okay. On the day of the plea, do
[6] you believe that Vankoot was committing
[7] perjury?
[8] MR. GOODSTADT: Objection.
[9] A: How would I know?
[10] Q: You said you were there. You
[11] were there at the incident and you were
[12] there at the plea. Who better than you
[13] would know?
[14] MR. GOODSTADT: Objection.
[15] A: Well —
[16] Q: Other than Mr. Vankoot?
[17] A: How do I know if he's pleading —
[18] if he's committing perjury? How do I know
[19] that?
[20] Q: That's right. How would you know
[21] that? So, likewise, how would you know if
[22] he was committing perjury to you that night
[23] when he told you what was going on?
[24] A: Well, how do I know that all
[25] these witnesses weren't committing perjury

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[1] *F. Fiorillo*
[2] on the statements?
[3] Q: That's right. So you don't know
[4] as you sit here today as to whether
[5] Mr. Vankoot was telling you the truth the
[6] night you took his statement on the night of
[7] the Halloween incident, correct?
[8] A: Correct.
[9] Q: Okay. Also, now did you,
[10] Mr. Lamm or Mr. Snyder secure the crime
[11] scene, did you? Isn't that true, the night
[12] of the Halloween incident?
[13] A: We — well, what I did was —
[14] well, you want to tell me — I can tell
[15] you —
[16] Q: You know what —
[17] A: I don't know what they did.
[18] Q: Let me ask you what you did.
[19] You're 100 percent right. I'm only to ask
[20] you what you did or what you observed. Did
[21] you security the crime scene?
[22] A: I was tending to the victims
[23] outside in the street.
[24] Q: Yes or no, sir, did you secure
[25] the crime scene? You asked me to ask you

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[1] *F. Fiorillo*
[2] specifically about you, so that's what I'm
[3] doing. And I agree with you. I should only
[4] be asking you about what you did. Did you
[5] secure the crime scene that night?
[6] A: I didn't.
[7] Q: Did you instruct Lamm or Snyder
[8] to secure the crime scene that night?
[9] A: I got to tell you, I was tending
[10] to the victims. My — my — my initial
[11] concern was to get these people medical
[12] attention. That was my concern.
[13] Q: Sir, my question to you is
[14] simple, did you ask Lamm or Snyder to secure
[15] the crime scene that night?
[16] A: No.
[17] Q: Did — do you have an
[18] understanding as to what "secure the crime
[19] scene" is?
[20] A: Yes.
[21] Q: For the jury who hasn't watched
[22] Law & Order for the last 20 years, can you
[23] tell them what you — what your
[24] understanding is of securing the crime
[25] scene?

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[1] *F. Fiorillo*
[2] A: To keep all the evidence intact
[3] and not touched.
[4] Q: Are you aware, as you sit here
[5] today, as to whether Lamm or Snyder
[6] undertook any efforts to secure the crime
[7] scene that night?
[8] A: I don't recall.
[9] Q: Did you take any effort to find
[10] the pool stick that was allegedly used to
[11] strike one or all of the three alleged
[12] victims that night?
[13] A: Well, I tended to the victims, so
[14] I wasn't —
[15] Q: So your answer would be no?
[16] A: My answer was — well, because I
[17] wasn't in the bar.
[18] Q: I understand that.
[19] A: Yes. My answer is no.
[20] Q: Right. Okay. At any point in
[21] time prior to you leaving the island after
[22] the end of your shift, did you call Chief
[23] Paridiso to tell him what had gone on?
[24] A: He called me.
[25] Q: Did you call Paridiso?

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[1]
[2] A: No.
[3] Q: Now would it — isn't it true,
[4] sir, that you knew at a minimum, that
[5] Richard Bosetti had witnessed something that
[6] had gone on that night, right?
[7] A: Well, I didn't speak to Richie on
[8] what happened inside the bar.
[9] Q: But were you aware before the end
[10] of your shift that Richard Bosetti had
[11] witnessed something that went on?
[12] A: He didn't come up to me and tell
[13] me that he witnessed anything. In other
[14] words —
[15] Q: So is your answer no?
[16] A: No. The answer is no.
[17] Q: Okay. You were aware, though,
[18] that there was a claim that someone who
[19] identified themselves as a police officer
[20] was involved?
[21] A: Yes.
[22] Q: And you're aware that, at least
[23] according to one or three of the individuals
[24] that you took to the police station that
[25] night, someone pulled out a police shield

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[1] that was involved in the incident that
[2] night?
[3] A: Yes.
[4] Q: Did you call up Chief — I mean
[5] did you call up Mr. Hesse to advise him that
[6] there may be an officer that was involved in
[7] an altercation?
[8] A: No.
[9] Q: Did you call up Mayor Rogers at
[10] the time, prior to the — to you leaving the
[11] island that morning, that there may have
[12] been an officer involved in an — in an
[13] altercation?
[14] A: No.
[15] Q: Did you advise Mr. Loeffler, when
[16] he came with the ambulance, that there may
[17] have been an officer involved in an
[18] altercation?
[19] A: He knew that there was an officer
[20] involved in the altercation.
[21] Q: How did he know that?
[22] A: From what Tommy told him.
[23] Q: Okay. But did you tell Loeffler?
[24] A: No. Because —
[25]

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[1]
[2] Q: Did Loeffler advise you that he
[3] knew that there was an officer involved?
[4] A: Did Loeffler advise me?
[5] Q: Yeah.
[6] A: No.
[7] Q: Okay. Did you advise the Third
[8] Precinct that there was an altercation that
[9] required medical attention involving
[10] possibly an officer of the Ocean Beach
[11] Police Department?
[12] A: Why would I have to — hold on.
[13] Q: Did you? My question is did you?
[14] A: No.
[15] Q: Okay. When did you first become
[16] aware that Gary Bosetti was involved in the
[17] Halloween incident?
[18] A: The morning of — let's see.
[19] That would be Sunday morning.
[20] Q: And how — and how did you first
[21] learn of this? Sunday morning —
[22] A: Wait. Do I have the timeline
[23] right?
[24] Q: In relation to the incident, the
[25] incident occurred around 2:30, 3:00 the

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[1] morning of October 31, correct?
[2] A: Okay. So it was Sunday, October
[3] 31 in the morning.
[4] Q: Before or after the end of your
[5] shift?
[6] A: Well, that — I can't — I'll
[7] have to answer the question so you
[8] understand what I did.
[9] Q: Sure.
[10] A: I worked a double shift, so I
[11] didn't — I didn't go off duty.
[12] Q: Oh, you didn't go off duty. So
[13] when your shift ended — when did your first
[14] shift end?
[15] A: It ended at 8:00 in the morning.
[16] Q: Okay.
[17] A: So it really didn't end. I was
[18] continuing —
[19] Q: Right. Prior to the end of your
[20] first shift, how did you learn that Gary
[21] Bosetti was involved?
[22] A: I think it was the beginning of
[23] my second shift. The beginning of my second
[24] shift I learned that he was involved.
[25]

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[1]
[2] Q: I'm sorry, how soon after the end
[3] of your first shift did you learn that Gary
[4] Bosetti was involved?
[5] A: It was the begin — how soon
[6] after my first shift? It was the beginning
[7] of my second shift.
[8] Q: How soon after the beginning of
[9] your —
[10] A: Okay. So it was within the
[11] next — within the next two hours.
[12] Q: Who told you or how did you
[13] learn?
[14] A: Well, the chief — the chief —
[15] well, what happened was the chief called me
[16] up and I told him what happened from the
[17] night before, and he said he was going to
[18] come in on the next ferry.
[19] He comes in on the next ferry.
[20] The parties involved from the incident from
[21] the night before came to the station when
[22] the chief came to the station. It was like
[23] they came — I think — I'm not sure, but I
[24] think they were on the boat with him. I'm
[25] not sure, but I think that's how it went,

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[1] how that transpired, because I didn't see
[2] the chief come off the ferry, but I think
[3] they came in together.
[4] Q: Right.
[5] A: Anyway, they were in the — they
[6] were in the — in the office by George
[7] Hesse's desk, and the chief was interviewing
[8] everybody involved, and what one of the — I
[9] think it was Chris Shalick pointed to a
[10] picture above George Hesse's desk of Gary
[11] Bosetti. So he told the chief, Chief
[12] Paridiso, that that's the person that was
[13] involved in the fight and hit him with the
[14] pool cue.
[15] Q: Okay. Let's go back to the time
[16] that you say a few months after the incident
[17] that Chief Hesse called you and gave you the
[18] folder and told you that John Cherry had
[19] gone out of his way to do the investigation
[20] and I want you to read all of the
[21] statements, do you recall that?
[22] A: Yes.
[23] Q: When in relation to the start of
[24] the season did that take place?
[25]

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[1]
[2] A: I think pretty close to the start
[3] of the season. You know —
[4] Q: Okay. And after you read those
[5] statements, what, if anything, did you say
[6] to Hesse?
[7] A: That that's not the way it
[8] happened.
[9] Q: Okay. Did you say anything else?
[10] A: I don't recall saying anything
[11] else.
[12] Q: Did you say anything to
[13] anybody — to Chief Paridiso about the
[14] incident after you read the statements that
[15] Hesse made you read?
[16] A: No. Because I think at the time
[17] that I read the statements, I think the case
[18] was over. I don't think it was ongoing. I
[19] think it was — I think I got the statements
[20] after everything was completed.
[21] Q: No. I believe you're right on
[22] that. But nevertheless, after you read the
[23] statements, you told Hesse that that's not
[24] the way it happened, right? Right?
[25] A: Yes.

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[1]
[2] Q: And so my question to you is, did
[3] you tell Paridiso after you read those
[4] statements that that's not the way it
[5] happened?
[6] A: No. I told him that when
[7] initially —
[8] Q: I'm only asking you about —
[9] A: Not then. No.
[10] Q: Okay. Now did you form the
[11] belief at that — did you have the belief
[12] at that time that there was a cover up?
[13] A: Yes.
[14] Q: I'm talking specifically about
[15] the time that you read the statements.
[16] A: Yes.
[17] Q: Okay. Did you go to Chief
[18] Hesse — I'm sorry, did you go to Chief
[19] Paridiso and advise him that you believed
[20] there was a cover up?
[21] A: No.
[22] Q: Did you go before — before
[23] August 1 of 2005, did you go to Mayor Rogers
[24] and complain that there was a cover up?
[25] A: No.

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[1]
[2] Q: Did you go to Trustee Loeffler
[3] and complain that there was a cover up?
[4] A: No.
[5] Q: Did you go to the Suffolk County
[6] District Attorney's office and complain that
[7] there was a cover up?
[8] A: When?
[9] Q: Prior to August 1, 2005?
[10] Regarding the Halloween incident?
[11] A: Prior to August 1?
[12] Q: Right.
[13] A: No.
[14] Q: And, in fact, if I recall your
[15] testimony correctly, the Suffolk County
[16] District Attorney contacted you?
[17] A: Correct.
[18] Q: You never contacted them
[19] initially about any alleged cover up,
[20] correct?
[21] A: I don't recall doing that.
[22] Q: And you never went to any media
[23] outlet?
[24] A: No.
[25] Q: And you never presented yourself

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[1] to a board of trustees meeting?
[2] A: No.
[3] Q: And say that there was a cover
[4] up?
[5] A: No.
[6] Q: You never went to the Suffolk
[7] County Legislature to say that there was a
[8] cover up?
[9] A: No.
[10] Q: In fact, isn't it fair to say
[11] that other than your communications with the
[12] Suffolk County District Attorney's office,
[13] prior to the time that you were not rehired
[14] or fired as you claim, you did absolutely
[15] nothing to publicize your opinion that there
[16] was a cover up, other than to other officers
[17] at Ocean Beach?
[18] A: Correct.
[19] Q: And what other officers did you
[20] say — did you claim that there was a cover
[21] up prior to your last day — prior to April
[22] 2, 2006?
[23] A: Who did — who did I talk to
[24] about that incident being a cover up?
[25]

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[1]
[2] Q: Yeah.
[3] A: Kevin Lamm.
[4] Q: Um-hum.
[5] A: Tommy Snyder.
[6] Q: Um-hum.
[7] A: Eddie Carter.
[8] Q: Okay.
[9] A: Joe Nofi.
[10] Q: Okay.
[11] A: Prior to — excuse me. Can I go
[12] back to that?
[13] Q: Sure.
[14] A: Prior to me being fired or what
[15] was the date?
[16] Q: Prior to April 2, 2006.
[17] A: Dave Gerden.
[18] Q: And who's Dave Gerden?
[19] A: He was also a police officer on
[20] Ocean Beach.
[21] Q: And what did you say to Dave
[22] Gerden?
[23] A: I told him what happened with the
[24] Halloween incident, and you know, that I
[25] felt that there was a cover up.

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[1]
[2] Q: And what did you — what did
[3] Gerden say to you, if anything?
[4] A: Let me think. He told me that
[5] Gary Bosetti hit that guy with the pool cue
[6] because Gary Bosetti told him that he hit
[7] the guy with the pool cue.
[8] Q: Dave Gerden says that Gary
[9] Bosetti told him that he hit the guy with
[10] the pool cue?
[11] A: Yes.
[12] Q: Okay. And have you told the DA
[13] that?
[14] A: Yes.
[15] Q: Let's go back to the Complaint.
[16] Let's go to page 44.
[17] A: (Reviewing). Okay.
[18] Q: Let's look at paragraph 189.
[19] A: (Reviewing).
[20] Q: It's under the Fifteenth Cause of
[21] Action, which is entitled "Tortious
[22] Interference With A Prospective Business
[23] Relationship Under New York Law," do you see
[24] that?
[25] A: 189?

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[1]
[2] **Q:** Yeah. Well, I'm reading the bold
[3] language.
[4] **A:** Oh. Oh. I'm sorry.
[5] **Q:** Do you see where I'm referring
[6] to? Are you at page 44?
[7] **A:** Yes.
[8] **Q:** Paragraph 189?
[9] **A:** Yes.
[10] **Q:** Look up above about four lines,
[11] you see the bold lettering?
[12] **A:** Okay. I got you.
[13] **Q:** Okay. Paragraph 189, you say "as
[14] set forth above, Plaintiffs were variously
[15] scheduled to commence new employment at a
[16] number of employers, including without
[17] limitation, the Suffolk County Police
[18] Department, the Suffolk — the Southampton
[19] Police Department, the Town of Islip, and
[20] the Collier County, Florida Sheriff's
[21] Department," do you see that?
[22] **A:** Yes.
[23] **Q:** Sir, were you scheduled, prior to
[24] June 30, 2006, to commence a new — a new
[25] employment relationship with any entity or

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[1] individual?
[2] **A:** From this list?
[3] **Q:** From any list?
[4] **A:** No. But from what you just
[5] stated in 189?
[6] **Q:** Right. 189 says —
[7] **A:** Yes. The answer is yes.
[8] **Q:** "Plaintiffs were scheduled."
[9] **A:** Yes.
[10] **Q:** Okay. Who were you scheduled to
[11] start new employment with?
[12] **A:** The Southampton Police
[13] Department. The Town of Southampton.
[14] **Q:** When were you advised that you
[15] were to start employment with them?
[16] **A:** Well, I was scheduled for an
[17] interview.
[18] **Q:** So you would agree with me that
[19] being scheduled for an interview isn't the
[20] same as being scheduled to commence work,
[21] right?
[22] **A:** No. But I had a very high chance
[23] of obtaining this position.
[24] **Q:** Okay. But you would agree —
[25]

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[1] **A:** Very likely.
[2] **Q:** But, sir, you would agree with me
[3] that notwithstanding the likelihood of
[4] anything, an interview isn't the same as a
[5] job offer?
[6] **A:** I understand that.
[7] **Q:** Is that — you agree with me?
[8] **A:** I agree with you.
[9] **Q:** Okay. So you did not have any
[10] scheduled start date for the Town of
[11] Southampton Police Department, did you?
[12] **A:** No.
[13] **Q:** Okay. So that reference in 189
[14] is not a completely accurate statement, is
[15] it?
[16] **MR. GOODSTADT:** Objection.
[17] **A:** Well, it had the potential to be.
[18] **Q:** But you don't say "potential" in
[19] 189. Sir, you say "Plaintiffs were
[20] variously scheduled to commence new
[21] employment," and then you list the
[22] Southampton Police Department, right?
[23] **A:** Yes.
[24] **Q:** So you would agree with me that
[25]

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[1] that's not the most completely accurate
[2] statement?
[3] **MR. GOODSTADT:** Objection.
[4] **Q:** I'm not calling you a liar. I'm
[5] just saying it's not the most accurate
[6] statement, you would agree with me?
[7] **A:** Yes.
[8] **Q:** Okay. What other employers or
[9] entities or individuals were you scheduled
[10] to commence employment with prior to June
[11] 30, 2006?
[12] **A:** Out of 189?
[13] **Q:** Well, 189 is your — just so
[14] we're clear —
[15] **A:** Just the Town of Southampton had
[16] to do with me.
[17] **Q:** Okay. Well, let's take it
[18] outside of 189. Other than — name me —
[19] identify for me the other jobs that you were
[20] scheduled to commence working prior to June
[21] 30, 2006.
[22] **A:** I had a job interview, and it
[23] wasn't only an interview, I spoke to this
[24] person, his name was Tom Dolan, a week prior
[25]

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[1] to me being fired. He is the owner of a
[2] firm called TMJ I believe it's Protection
[3] Services. I'm not quite sure if it's
[4] Protective or Protection, but it's TMJ. His
[5] name is Tom Dolan. I spoke to him. We went
[6] over what position he had available. He
[7] said he could use me. He said all I had to
[8] do was come in Monday morning at 10:30,
[9] Oct — April 3, 2006, and the job is mine.
[10] So, to me, that was a very good
[11] opportunity where I had his word that I was
[12] going to commence that particular job. But
[13] when I was fired on April 2, I had to call
[14] him up 10:30 in the morning, um, on April 3
[15] that I didn't have a police ID anymore, and
[16] therefore, I couldn't fulfill that position.
[17] Q: Okay. And what did he say then?
[18] A: He was very — he felt bad for
[19] me. He had, you know — he said, you
[20] know — he just felt bad for me. I don't
[21] know exactly like what he 100 percent said.
[22] He just said he felt bad.
[23] Q: Sir, you would agree with me
[24] given that you were not rehired on April 2,
[25]

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[1] and you then spoke to this gentleman on
[2] April 3 —
[3] A: Well, I spoke to him a week
[4] before April 3.
[5] Q: But you spoke to him on April 3?
[6] A: I had to.
[7] Q: Right.
[8] A: Because he was expecting me.
[9] Q: Just listen to my question. You
[10] would agree with me that given that April 2
[11] was the date that you were told you were no
[12] longer going to be working for Ocean Beach,
[13] and the next morning on April 3 you called
[14] up this gentleman to tell him that, that the
[15] reason you didn't get that job had nothing
[16] to do with any defamatory statements that
[17] Mr. Hesse made about you after April 2?
[18] A: Not on April 3. Not at that
[19] time.
[20] Q: Right. In fact, to your
[21] knowledge, the only reason you didn't get
[22] that job was because you no longer had the
[23] job at Ocean Beach, right?
[24] A: Yes.
[25]

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[1] Q: It had nothing to do with any
[2] defamatory or disparaging comments that you
[3] allege that Hesse made about you?
[4] A: Not at that time.
[5] Q: Right. Okay. So what other
[6] job — I'm sorry, what other employment,
[7] prior to June 30, 2006, did you have
[8] scheduled to start? You mentioned —
[9] A: I didn't have any other jobs to
[10] start.
[11] Q: Okay. How about between June 30,
[12] 2006 and the end of 2006, what jobs, if any,
[13] did you have scheduled to start in that time
[14] period?
[15] A: From April 2, 2000 —
[16] Q: No. From June 30, 2006 through
[17] the end of the year.
[18] A: I didn't have any jobs to start I
[19] don't believe.
[20] Q: Okay. Let's then go back to the
[21] Southampton, um, interview. When did you
[22] have an interview scheduled with
[23] Southampton?
[24] A: I believe it was May 11 of 2006.
[25]

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[1] Q: Okay.
[2] A: And at 2:30 in the afternoon.
[3] Q: When did you schedule that
[4] interview?
[5] A: On — it was earlier in the
[6] week. Maybe — maybe the eighth or the
[7] ninth or maybe it was — it was earlier in
[8] the week. With — within a week time period
[9] I would say.
[10] Q: Okay. So at some point in time
[11] in the beginning of May, you scheduled an
[12] interview with someone at the Town of
[13] Southampton —
[14] A: Correct.
[15] Q: — Police Department concerning a
[16] potential job there?
[17] A: Correct.
[18] Q: What was the position in which
[19] you were interviewing for?
[20] A: Police officer.
[21] Q: Full time or part time?
[22] A: Part time.
[23] Q: Okay. Now, when did you start
[24] the application process for that job?
[25]

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[1] A: Let's see. After I was fired.
[2] Q: Okay. How did you go about
[3] starting the application process?
[4] A: I called my friend Jane Harrigan
[5] and — because she was in my academy class,
[6] and she was working as a police officer in
[7] Southampton Town.
[8] Q: Okay.
[9] A: So I asked Jane, I said, "Are
[10] there any openings coming up because" — I
[11] explained my situation, and she said,
[12] "Sure." She goes, "I'll just let them know,
[13] you know, you were in my class and how you
[14] are and we'll get you scheduled," and you
[15] know — she basically told me they'll hire
[16] you.
[17] Q: Okay. And —
[18] A: Through her reference.
[19] Q: Through her reference. Was she a
[20] full time or part time?
[21] A: At that time, full time.
[22] Q: Okay. So you scheduled an
[23] interview. Who were you going to interview
[24] with?
[25]

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[1] A: Scott Foster. Sergeant Scott
[2] Foster.
[3] Q: Did you ever have an interview
[4] with him?
[5] A: No, I did not.
[6] Q: And who canceled the interview?
[7] A: He did.
[8] Q: And how did you learn that he
[9] canceled the interview?
[10] A: He called me up on —
[11] Q: Well, just tell me how you
[12] learned.
[13] A: Okay. He called me up.
[14] Q: Okay. And he said that the
[15] interview was canceled? Well, what did he
[16] say?
[17] A: He didn't say that exactly.
[18] Q: Tell me what he said.
[19] A: He said this. He said that he
[20] just spoke to a Sergeant Hesse over at Ocean
[21] Beach Police Department.
[22] Q: Um-hum.
[23] A: And he was getting a reference on
[24] me, and Sergeant Hesse gave me a bad
[25]

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[1] reference. He said that I was involved —
[2] Hesse said that I was involved in an
[3] incident at Ocean Beach and that — he
[4] stated to me that — oh, what happened was
[5] I said, "Well, what incident did he say that
[6] I was involved in?" He said, "You should
[7] know the incident that you were involved in.
[8] I don't have to tell you." So I said,
[9] "Well, I'm just trying to find out, sir."
[10] He said, "Listen, you picked the wrong
[11] department." And I couldn't even talk. He
[12] hung up the phone. That was the end of
[13] the — the, um, conversation. That's
[14] exactly how it happened.
[15] Q: So you don't know, as you sit
[16] here today, what specifically Mr. Hesse said
[17] to this Mr. Foster?
[18] A: I have no idea.
[19] Q: Okay. And did you ever inquire
[20] with George Hesse as to what he said to
[21] Mr. Foster?
[22] A: You expect me to —
[23] Q: I'm just asking you, sir.
[24] A: I wasn't going to call George
[25]

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[1] Hesse after that.
[2] Q: Okay.
[3] A: He fired me on April 2. I'm
[4] going to call — he didn't even give me a
[5] letter of recommendation.
[6] Q: Did you ask Mr. Hesse for a
[7] letter of recommendation?
[8] A: That's the least he could have
[9] did.
[10] Q: Did you ask Mr. Hesse for one?
[11] A: I asked him for one at the table
[12] when he fired me.
[13] Q: And what did he say to you?
[14] A: He said, "We'll get that off to
[15] you."
[16] Q: Okay. Did you expect Mr. Hesse
[17] to be — to give you a good recommendation?
[18] A: Why not? I was a good police
[19] officer.
[20] Q: Did he like you?
[21] A: You'd have to ask him.
[22] Q: Well, you worked with him, sir.
[23] Do you have an opinion as to whether
[24] Mr. Hesse liked you?
[25]

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F. Fiorillo

[1]
[2] **A:** I think that he was — I wasn't
[3] part of his clique, and he disliked me
[4] because I listened to the chief.
[5] **Q:** When you say you listened to the
[6] chief, what are you talking about?
[7] **A:** Well, the chief wanted me to
[8] write summonses. George Hesse didn't want
[9] me to write summonses. They were — they
[10] had a love/hate relationship between George
[11] Hesse and the chief, and it was reflected
[12] upon me because the chief — my order was
[13] to go out and write summonses because the
[14] Village, the board was getting on the
[15] chief's case that the department wasn't
[16] writing enough summonses and a lot of the
[17] residents were getting upset because the
[18] officers were in the Village on Main Street,
[19] just disregarding the violations that were
[20] occurring in front of them and nothing was
[21] being done.
[22] **Q:** So George Hesse had asked you to
[23] write more summonses?
[24] **A:** No.
[25] **Q:** Less summonses?

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F. Fiorillo

[1]
[2] **A:** Less.
[3] **Q:** And you didn't follow his order,
[4] you followed Paridiso's order to write more?
[5] **A:** Naturally.
[6] **Q:** All right.
[7] **A:** Sure.
[8] **Q:** Not a question. I'm just trying
[9] to get the facts out, sir.
[10] **A:** Yeah. Because what happened
[11] is —
[12] **Q:** No. That's — that's fine. You
[13] established it. Hesse wanted you to write
[14] less?
[15] **A:** Correct.
[16] **Q:** Paridiso wanted you to write
[17] more. You listened to Paridiso and not
[18] Hesse?
[19] **A:** Correct.
[20] **Q:** And you said "naturally." Why
[21] "naturally"?
[22] **A:** Because the chief — you
[23] don't — okay. When you — when you go
[24] through a police academy, you learn that the
[25] highest ranking officer gives — when the

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F. Fiorillo

[1]
[2] highest ranking officer gives an order,
[3] somebody under him cannot say, "don't do
[4] that, do this." Absolutely not. Doesn't go
[5] like that in the police department.
[6] **Q:** And in your opinion, Paridiso was
[7] the highest ranking officer?
[8] **A:** According to the chart in Ocean
[9] Beach.
[10] **Q:** Okay. Any other reasons —
[11] okay. So — so my question to you then, if
[12] Hesse disliked you, why did you think that
[13] he would give you a recommendation?
[14] **A:** Well, that's the least he could
[15] have did, if he was going to get rid of us,
[16] right? Firing us — first of all, it was
[17] all retaliation, in my opinion, because he
[18] sent a letter to us, all right, and he had
[19] us under the assumption that we were all
[20] getting new IDs. I had no idea I was going
[21] to be fired. I didn't — I couldn't prepare
[22] my life prior to that, you know, that day to
[23] do something else if I had a chance. In
[24] other words, from March 11 to April 2, I was
[25] getting new ID. April 2 I'm fired.

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F. Fiorillo

[1]
[2] **MO MR. NOVIKOFF:** But motion to
[3] strike, sir. You didn't answer my
[4] question.
[5] **Q:** Why would you think that if Hesse
[6] disliked you, that he would have given you a
[7] recommendation saying that you were a good
[8] police officer?
[9] **MR. GOODSTADT:** Objection.
[10] **A:** Well, I just couldn't — I didn't
[11] understand the guy. I mean, why — why
[12] would he fire us and then keep on sticking
[13] it to us?
[14] **Q:** I understand that.
[15] **A:** I mean, that's — that's like —
[16] **Q:** But why did you think that —
[17] **A:** So unethical. So —
[18] **Q:** Why did you think Hesse would
[19] have given you a good recommendation, given
[20] the fact that, as you say, he fired you?
[21] **MR. GOODSTADT:** Objection.
[22] **Q:** For no reason, according to you?
[23] **MR. GOODSTADT:** Objection.
[24] **A:** Well, I'm sure he had a reason.
[25] **Q:** Okay.

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F. Fiorillo

[1]
[2] **A:** I'm not there. I'm fired.
[3] **Q:** Okay. Now this Jane Harrigan —
[4] **A:** Yes.
[5] **Q:** Is this the same person that you
[6] mentioned earlier that you had complained
[7] to?
[8] **A:** Yes.
[9] **Q:** Did you ever inquire with her as
[10] to perhaps looking into what Hesse said to
[11] this guy Foster?
[12] **A:** I did.
[13] **Q:** You did, and what did Harrigan
[14] say to you? Well, what did you say to
[15] Harrigan?
[16] **A:** I asked Jane, I said, "Jane, can
[17] you find out like what happened, because I
[18] really — I don't know what's going on." I
[19] mean, the phone call was so abrupt. And I
[20] was polite. I didn't know like what I did
[21] wrong. I was — I was mortified by just
[22] like what was happening. Everything was
[23] falling apart in my life, okay? You know,
[24] like little by little. And it was like
[25] unjustified, in my opinion.

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F. Fiorillo

[1]
[2] **Q:** Well, what else was falling apart
[3] in your life, sir? You worked for Ocean
[4] Beach — you said you worked for Ocean Beach
[5] as a part-time employee. You no longer
[6] worked for them. You gave up a —
[7] **A:** Yeah. But I had a job offering
[8] the day after. That fell apart. In other
[9] words, piece by piece.
[10] **Q:** Yeah. What other pieces? I'm
[11] trying to figure this out.
[12] **A:** Well, I couldn't — I applied
[13] with other police departments.
[14] **Q:** Okay. Well, let's stick with
[15] Southampton for a while. What did Jane
[16] Harrigan say to you?
[17] **A:** Jane Harrigan said that she
[18] didn't work on the same tour as Scott
[19] Foster, so they didn't — I don't know.
[20] They didn't, um, interact.
[21] **Q:** So she couldn't help you out?
[22] **A:** Well, I didn't ask her to help me
[23] out. I just —
[24] **Q:** What did you ask her to do?
[25] **A:** To find out like — help me out.

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F. Fiorillo

[1]
[2] Yeah.
[3] **Q:** So she couldn't help you out
[4] because she didn't really work with the guy?
[5] **A:** Exactly.
[6] **Q:** Okay. And how — did you advise
[7] Foster before that phone call where he hung
[8] up on you that you had worked for Ocean
[9] Beach?
[10] **A:** I sent him my paperwork.
[11] **Q:** Okay. So he was aware that you
[12] had worked for Ocean Beach?
[13] **A:** Oh yeah.
[14] **Q:** And is it your understanding that
[15] he was reaching out to George Hesse to get a
[16] recommendation about you as part of the
[17] interviewing process?
[18] **A:** I don't know what he was doing,
[19] you know. I assume.
[20] **Q:** Did you ever tell Hesse that you
[21] were interviewing with the Town of
[22] Southampton?
[23] **A:** I was fired.
[24] **Q:** Did you — that's my question to
[25] you. Did you ever tell Hesse that you were

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F. Fiorillo

[1]
[2] interviewing with the Town of Southampton?
[3] **A:** Why would I tell him that?
[4] **Q:** Sir, stranger things — stranger
[5] things have occurred.
[6] **A:** Okay. No.
[7] **Q:** You didn't tell Hesse, right?
[8] **A:** No.
[9] **Q:** Did you tell Paridiso?
[10] **A:** No.
[11] **Q:** Why didn't you give Paridiso down
[12] on your paperwork as a reference?
[13] **A:** I didn't give anybody down as a
[14] reference.
[15] **Q:** Oh, you just gave Ocean Beach?
[16] **A:** They called the Ocean Beach
[17] Police Department.
[18] **Q:** Got it. Okay. Now what other
[19] jobs in the law enforcement field did you
[20] apply for in the first six months of 2006,
[21] other than Town of Southampton?
[22] **A:** Um, after I was fired? Because
[23] that's when I applied.
[24] **Q:** Fine. After you were fired. In
[25] fact, you know what, I'll withdraw the

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F. Fiorillo

[1] question. You said that you exhausted your
[2] search for a new job?
[3] A: Exactly. As far as a police
[4] officer.
[5] Q: That's right. I understand that.
[6] What happen — what police departments or
[7] similar law enforcement agencies did you
[8] apply for in 2006 after you were fired?
[9] A: Okay. I applied — Quogue sent
[10] me a letter stating what they wanted. I
[11] sent them back all the information that they
[12] wanted. There was an opening in Quogue. I
[13] applied there. Riverhead, I filed a Suffolk
[14] County Civil Service form because that's
[15] what they required, so I did that, and I did
[16] that with Joe Nofi also. We did that
[17] together. As a matter of fact, we did that
[18] the day that we were fired —
[19] Q: Okay.
[20] A: — on April 2.
[21] Q: Okay.
[22] A: So we did that. And Joe
[23] actually —
[24] Q: I don't want to know about Joe.
[25]

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F. Fiorillo

[1] A: Okay. Okay.
[2] Q: I had the pleasure of speaking
[3] with Joe.
[4] A: Okay. So. So —
[5] Q: I got Quogue. I got Riverhead.
[6] What else?
[7] A: Northport Village. Chief
[8] Bruckenthal.
[9] Q: Okay.
[10] A: Huntington Bay, Chief Hubbs.
[11] Chief Hegermiller in Riverhead you got.
[12] Q: Right. So I got Quogue,
[13] Riverhead, Northport Village, Huntington
[14] Bay. What else?
[15] A: I called other police departments
[16] to see if they were hiring. I called
[17] Asharoken and I called Head of the Harbor.
[18] Q: Hold on. Asharoken?
[19] A: Head of the Harbor. Lloyd
[20] Harbor. I called Amityville, but you had to
[21] be a resident, so I couldn't do anything
[22] there. I called Southampton Village.
[23] Q: Okay.
[24] A: I called Westhampton Beach.
[25]

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F. Fiorillo

[1] Q: Okay.
[2] A: Um, that's — that's pretty
[3] close.
[4] Q: So let me just distinguish
[5] between the categories of police
[6] departments. You submitted some type of
[7] information to Quogue, Riverhead, Northport
[8] Village and Huntington Bay?
[9] A: Only those.
[10] Q: Right. You called to inquire if
[11] there were any openings at Asharoken, Head
[12] of the Harbor, Lloyd Harbor, Amityville,
[13] Southampton Village and Westhampton Beach?
[14] A: Yeah. There could be a couple
[15] others, but I'm not — that's what I can
[16] recall right now.
[17] Q: Couple of others that you called?
[18] A: Correct.
[19] Q: Okay. Now when you called
[20] Asharoken, did they tell you there was an
[21] opening?
[22] A: Asharoken, no. See, that's why
[23] the ones that I called —
[24] Q: That's your —
[25]

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F. Fiorillo

[1] A: — that I didn't send any
[2] paperwork, weren't hiring.
[3] Q: Well, let's just go through the
[4] list. Head of the Harbor, were they hiring?
[5] A: According to what they told me,
[6] no.
[7] Q: That's fine. Lloyd Harbor?
[8] A: According to what they told me,
[9] no.
[10] Q: Amityville?
[11] A: According to what they told me,
[12] you had to be a resident.
[13] Q: And you weren't?
[14] A: No.
[15] Q: Southampton Village, were they
[16] hiring?
[17] A: No.
[18] Q: Westhampton Beach?
[19] A: No.
[20] Q: Okay. And they told you they
[21] weren't hiring during the phone call that
[22] you reached out to them for?
[23] A: Correct.
[24] Q: Okay. So the only communication
[25]

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F. Fiorillo

[1] you had with any of these villages was your
[2] phone call?
[3] A: That's right.
[4] Q: Okay. Quogue, what did you
[5] submit to them?
[6] A: I think I submitted my police
[7] academy certificate and my state MPTC
[8] certificate.
[9] Q: Ever have an interview with them?
[10] A: No.
[11] Q: Riverhead, what did you submit to
[12] them?
[13] A: I submitted the, um, the Suffolk
[14] County Civil Service form that comes out of
[15] Ms. Zwilling's office.
[16] MS. ZWILLING: Not out of my
[17] office.
[18] A: Well, the Suffolk County Civil
[19] Service Department. I'm sorry. I'm sorry
[20] about that.
[21] Q: Okay. Anything else?
[22] A: Um, to Riverhead?
[23] Q: Yeah.
[24] A: I think that was it. That's what
[25]

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F. Fiorillo

[1] they required.
[2] Q: Ever have an interview with them?
[3] A: No.
[4] Q: Northport Village, what did you
[5] submit?
[6] A: I submitted my — my academy
[7] certificate and my MPTC I believe and — I
[8] don't recall. I think — they didn't send
[9] me an application, because I just faxed them
[10] that stuff. Or maybe a copy of my driver's
[11] license.
[12] Q: Did you ever — did you ever have
[13] an interview with Northport Village?
[14] A: No.
[15] Q: Huntington Bay, did you ever have
[16] an interview with them?
[17] A: No.
[18] Q: What did you submit to them?
[19] A: Um, my academy certificate and my
[20] MPTC, because Chief Hubbs gave me the
[21] address, I mailed it to his department and
[22] never heard back from him.
[23] Q: Did Quogue indicate that there
[24] were openings or did they just say "send me
[25]

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F. Fiorillo

[1] your information?"
[2] A: They indicated there were
[3] openings.
[4] Q: How about Riverhead?
[5] A: Yes.
[6] Q: How about Northport Village?
[7] A: Yes.
[8] Q: How about Huntington Bay?
[9] A: Possibly. Chief Hubbs was like,
[10] "We might hire somebody. You know, if you
[11] send me your stuff, I'll look at it."
[12] Q: Do you know if Quogue ever hired
[13] anyone in that time period for the job that
[14] you were looking for?
[15] A: I don't know.
[16] Q: How about Riverhead?
[17] A: I don't know.
[18] Q: How about Northport Village?
[19] A: I don't know.
[20] Q: Did anyone at Quogue speak to you
[21] about anything that George Hesse said to
[22] them? Well, withdrawn. In any
[23] communication with Quogue, did they advise
[24] you that someone spoke to George Hesse about
[25]

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F. Fiorillo

[1] you?
[2] A: No.
[3] Q: In any communication involving
[4] Riverhead, did anyone say that they spoke to
[5] George Hesse about you?
[6] A: No.
[7] Q: In any communication with
[8] Northport Village, did anyone say that they
[9] spoke to George Hesse about you?
[10] A: No. They never got back to me.
[11] Q: Fine. That's what I'm asking.
[12] So other than after you submitted the
[13] paperwork, neither Quogue, Riverhead or
[14] Northport Village got back to you?
[15] A: No. There was — Riverhead was
[16] the best chance of getting hired at the
[17] time, and I spoke to the secretary of the
[18] chief, her name was Mary, and I must have
[19] called her numerous, numerous times. She
[20] never called me back. I left messages
[21] numerous times. She never called me back.
[22] Q: But you have no basis, as you sit
[23] here today, to — to conclude that George
[24] Hesse had called Northport Village?
[25]

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[1] *F. Fiorillo*
[2] A: No. I just think that the stigma
[3] around Ocean Beach was well known in the
[4] police community, and ultimately affected me
[5] as a candidate — a potential employee.
[6] Q: The stigma around Ocean Beach,
[7] right?
[8] A: Yes.
[9] Q: Not anything that George Hesse
[10] particularly said to you?
[11] A: Well, he was part of it.
[12] Q: But I'm talking about not
[13] anything that George Hesse said to any of
[14] these employees about you?
[15] A: I don't know.
[16] Q: You have no knowledge one way or
[17] the other of what George Hesse said?
[18] A: No.
[19] Q: Right. And you don't have any
[20] knowledge that George Hesse was even aware
[21] that you applied to Quogue, Riverhead or
[22] Northport Village, right?
[23] A: No.
[24] THE VIDEOGRAPHER: This ends
[25] tape number four. The time is 3:33

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[1] *F. Fiorillo*
[2] p.m. Going off the record.
[3] (A break was taken.)
[4] THE VIDEOGRAPHER: This begins
[5] tape number five. The time is 3:48
[6] p.m. Back on the record.
[7] Q: Mr. Fiorillo, would you
[8] characterize, um, your desire to work in
[9] Quogue for the Quogue Police Department as a
[10] pending employment?
[11] MR. GOODSTADT: Objection.
[12] Q: Well, I'll be specific.
[13] Paragraph 190 you allege that "Defendant
[14] Hesse had knowledge of Plaintiffs' pending
[15] employment and/or business relationship with
[16] these employees — employers," do you see
[17] that?
[18] A: He did at Quogue.
[19] Q: I'm saying, did Mr. Hesse know
[20] that you submitted paperwork to Quogue?
[21] A: He might have found out because
[22] he had —
[23] Q: Sir, I'm not interested in what
[24] he might have found out.
[25] A: Okay. I don't know.

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[1] *F. Fiorillo*
[2] Q: Okay. Did you advise Mr. Hesse
[3] that you were submitting an application or
[4] paperwork to Quogue?
[5] A: This is after I was fired.
[6] Q: Yeah. After you were fired, did
[7] you advise Mr. Hesse?
[8] A: Well —
[9] Q: Yes or no? I know it's unlikely
[10] that someone that was fired would tell their
[11] supervisor that they're seeking another job.
[12] I get that. But my question to you is, did
[13] you advise Mr. Hesse that you wanted to seek
[14] a job with Quogue?
[15] A: After what he did with me in
[16] Southampton Town, I wasn't going to advise
[17] him or call him, because look what happened.
[18] I mean, I got — I got —
[19] MO MR. NOVIKOFF: Move to strike.
[20] I'm just going to — it's a simple yes
[21] or no, sir.
[22] Q: Did you ever advise Hesse that
[23] you were interested in a position with
[24] Quogue?
[25] A: No.

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[1] *F. Fiorillo*
[2] Q: Did you ever advise Hesse that
[3] you were interested in a position in
[4] Riverhead?
[5] A: No.
[6] Q: Did you ever advise Hesse that
[7] you were interested in a position with
[8] Northport Village?
[9] A: No.
[10] Q: Did you ever advise Hesse that
[11] you were interested in a position with
[12] Huntington Bay?
[13] A: No.
[14] Q: So you would agree with me that
[15] at least as to those four departments, the
[16] allegation in paragraph 90 where it's
[17] alleged that Hesse had knowledge of
[18] Plaintiffs' pending employment, is not
[19] accurate?
[20] MR. GOODSTADT: Objection.
[21] A: I don't know if he had knowledge
[22] of my pending employment.
[23] Q: Well, you didn't write "upon
[24] information and belief," did you? This
[25] is — this is — did you?

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F. Fiorillo

[1]
[2] **A:** Well, I'm not a lawyer. I
[3] don't —
[4] **Q:** This is a pretty declar — this
[5] is a pretty straight forward statement,
[6] wouldn't you agree? Sir, you said
[7] "Defendant Hesse had knowledge of
[8] Plaintiffs' pending employment." You didn't
[9] say I think he had knowledge. You didn't
[10] say maybe he had knowledge. You allege that
[11] Hesse had knowledge of Plaintiffs' pending
[12] employment.
[13] **A:** Yeah, but it goes a little
[14] further. He had business relationships with
[15] these employers.
[16] **Q:** No. This is not his
[17] relationships, these are your relationships.
[18] This is what you allege. And I want to get
[19] this clear, because it's important.
[20] Paragraph 190, "Defendant Hesse had
[21] knowledge of Plaintiffs' pending employment
[22] and/or business relationship with these
[23] employers," do you see that?
[24] **A:** Well, he did with Southampton
[25] Town.

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F. Fiorillo

[1]
[2] **Q:** I'm not talking about Southampton
[3] Town.
[4] **A:** Oh, okay.
[5] **Q:** I'm talking about Quogue,
[6] Riverhead, Northport Village and Huntington
[7] Bay?
[8] **A:** Not my knowledge.
[9] **Q:** So as to those four entities,
[10] this allegation isn't completely accurate?
[11] **MR. GOODSTADT:** Objection.
[12] **Q:** Correct?
[13] **MR. GOODSTADT:** Objection.
[14] **Q:** And I'll get to Southampton in a
[15] second.
[16] **MR. GOODSTADT:** Let me — he
[17] testified he doesn't know if it's
[18] accurate.
[19] **Q:** Is that your testimony, you don't
[20] know if it's accurate? I'll take that if
[21] that's going to be your answer.
[22] **A:** I'm trying — like I really don't
[23] know.
[24] **Q:** That's fine. And the only basis
[25] that you are aware that Hesse knew about

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F. Fiorillo

[1]
[2] your potential interest in the Town of
[3] Southampton is because of what this
[4] Mr. Foster said to you?
[5] **A:** Right.
[6] **Q:** Right. Okay. When you go on in
[7] paragraph 191 to say "Defendant Hesse
[8] intentionally and maliciously interfered
[9] with these pending employment and/or
[10] business relationships through fraudulent,
[11] deceitful and/or illegal means," that's not
[12] accurate with regard to Quogue, right?
[13] **A:** Correct.
[14] **Q:** That's not accurate with regard
[15] to Riverhead, correct?
[16] **MR. GOODSTADT:** Objection.
[17] **A:** Well, you know, I really — to
[18] be honest with you, like the last answer, I
[19] don't know.
[20] **Q:** What evidence can you point me to
[21] right now that — that would show, in your
[22] opinion, that Hesse interfered with anything
[23] involving Quogue?
[24] **A:** Well, there's a history with
[25] Hesse and Quogue. That's why I don't know.

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F. Fiorillo

[1]
[2] And I can explain further if you — if you
[3] want.
[4] **Q:** Other than a history, is there
[5] any evidence that you can point to that
[6] you've seen in this case that would point to
[7] Hesse interfering with you with Quogue?
[8] **A:** Not that I recall.
[9] **Q:** Right. And you're only
[10] speculating that given Hesse's history as
[11] you say with Quogue, he may have interfered
[12] in your application?
[13] **A:** Quite possibly.
[14] **Q:** It's a speculation, right?
[15] **MR. GOODSTADT:** Objection.
[16] **A:** It's a good possibility.
[17] **Q:** Isn't a good possibility a
[18] speculation?
[19] **MR. GOODSTADT:** Objection.
[20] **A:** Speculation is a little less than
[21] a good possibility.
[22] **Q:** Well, what's a good — you know
[23] what, tell me, tell the jury, what's a good
[24] possibility that Hesse interfered with your
[25] application with Quogue, sir?

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F. Fiorillo

[1]
[2] **A:** Well, Hesse had — what happened
[3] was in the department, Hesse, for some
[4] reason, took over from the Suffolk County
[5] Department of Civil Service to do background
[6] investigations, and what he did was he
[7] contacted Quogue and got all the information
[8] from Quogue and all the paperwork that
[9] Quogue had, because one of his buddies works
[10] in Quogue as a police officer.
[11] **Q:** Okay.
[12] **A:** So that's my belief that Hesse
[13] dealing with Quogue and getting the
[14] information, you know, for all his
[15] background investigation paperwork, because
[16] he became — he became the chief of the
[17] applicant investigation section in Ocean
[18] Beach at a certain point in time. But
[19] with — but that paperwork came from Quogue.
[20] That was the paperwork that he used to
[21] conduct background investigations.
[22] **Q:** So that's the history that you
[23] were referring to?
[24] **A:** Well, his dealing —
[25] **Q:** You said that Hesse had a

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F. Fiorillo

[1] history. Is that what you're referring to
[2] when you say "history"?
[3] **A:** Well, he had a connection.
[4] **Q:** Right. That was a history, that
[5] he took over some investigation for Ocean
[6] Beach, called up Quogue to get their
[7] paperwork and is using Quogue paperwork, is
[8] that the history?
[9] **A:** Well, he called up the police
[10] officer that he knows in Quogue and they
[11] forwarded him the paperwork in order to —
[12] **Q:** And who was the police officer
[13] that he knows in Quogue?
[14] **A:** I don't know.
[15] **Q:** Oh. Okay.
[16] **A:** But I do know that that's where
[17] it came from and he does have ties in
[18] Quogue.
[19] **Q:** Okay. Ties with just one police
[20] officer that you're aware of? That you're
[21] aware of, sir?
[22] **A:** At least one.
[23] **Q:** Okay. And it's based upon that
[24] that you think that there is a good
[25]

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F. Fiorillo

[1]
[2] possibility that Hesse interfered in your
[3] desire to work for the Quogue Police
[4] Department?
[5] **A:** Good possibility.
[6] **Q:** Okay. Northport Village, 191 is
[7] not accurate with regard to Northport
[8] Village, is it?
[9] **MR. GOODSTADT:** Objection.
[10] **A:** I don't know.
[11] **Q:** Okay. Huntington Bay, it's not
[12] accurate either, is it?
[13] **MR. GOODSTADT:** Objection.
[14] **A:** I don't know.
[15] **Q:** You don't know? Well, given the
[16] fact that you don't know what Hesse told
[17] Mr. Foster, if anything, with regard to Town
[18] of Southampton, you have no evidence that
[19] you can point me to that said that Hesse
[20] acted deceitfully in any information that he
[21] gave to Mr. Foster, can you?
[22] **A:** I don't know.
[23] **Q:** Okay. Same question with regard
[24] to illegal means? You don't know, right?
[25] **A:** He could have.

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F. Fiorillo

[1]
[2] **Q:** But you don't know, right?
[3] **A:** It's possible.
[4] **Q:** But you don't know?
[5] **A:** It's possible. And I don't know
[6] if, you know.
[7] **Q:** Right. Now let's talk about
[8] 19 — I'm sorry, 2007. What police
[9] department jobs did you apply for, if any,
[10] in 2007 or law enforcement related jobs?
[11] **A:** In 2007?
[12] **Q:** Yeah. We've talked about 2006.
[13] Talk to me about 2007 now.
[14] **A:** I don't — I don't even remember.
[15] It might have been — in 2007, I called up
[16] Collier County Sheriff's — Sheriff's
[17] Office.
[18] **Q:** Okay. Well, are you aware that
[19] Mr. Nofi also applied for Collier County?
[20] **A:** Well, what happened was when I
[21] called —
[22] **Q:** I'm just asking, are you aware
[23] that Mr. Nofi applied —
[24] **A:** Yes. Very aware. Because he's
[25] the one that told me there were openings in

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F. Fiorillo

[1]
[2] Collier County.
[3] Q: And did you submit the same type
[4] of paperwork for Collier County that
[5] Mr. Nofi did?
[6] A: I didn't — what happened was —
[7] do you want me to explain?
[8] Q: Sure.
[9] A: The answer is "no" to your
[10] question with an explanation the reason why.
[11] Q: Okay. What's the reason why?
[12] A: Okay. When I called up the
[13] investigator, his name was Mr. Donahoe, he
[14] told me that, um, Joe Nofi applied and —
[15] let me get this the way — the timeline.
[16] Joe applied — okay. This is what happened.
[17] Joy applied with Collier County. I then
[18] requested paperwork for the same department.
[19] Q: Okay.
[20] A: He sent me the paperwork, and in
[21] the time period from when Joe — Joe
[22] actually went to Florida. He passed all,
[23] you know, his background, except for when he
[24] came back, they went for a reference and
[25] they contacted Hesse, and Hesse apparently

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F. Fiorillo

[1] gave him a bad reference, and Donahoe
[2] stopped the application process. So what I
[3] did was —
[4] Q: Who told you this, that Hesse
[5] gave a bad reference?
[6] A: Joe.
[7] Q: Oh, okay.
[8] A: Joe — Joe told me —
[9] Q: Fine.
[10] A: — exactly what happened.
[11] Q: According to Joe?
[12] A: Well, Joe didn't lie. Joe didn't
[13] lie.
[14] Q: Oh, Joe's never lied to you?
[15] A: No. Joe —
[16] Q: No?
[17] A: Joe told me exactly what
[18] happened.
[19] Q: So it's your testimony that
[20] everything that Joe has said or alleged in
[21] this case is the absolute truth?
[22] A: I don't know what he said.
[23] Q: Okay. So continue. So Joe told
[24] you that Hesse gave him a bad reference?
[25]

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F. Fiorillo

[1]
[2] A: Right. Because he got some
[3] paperwork back that Hesse apparently
[4] signed — I don't know. You know, I'm just
[5] giving you what I got.
[6] Q: You tell me what Nofi told you.
[7] I got it.
[8] A: Right. So with that, I wasn't
[9] going to go through the same process and
[10] then get — go through all the expense of
[11] going to Florida, going through the process
[12] and coming back and him calling Hesse and
[13] Hesse saying whatever, and then me not
[14] getting that opportunity.
[15] Q: Okay.
[16] A: So I didn't apply.
[17] Q: Okay. So —
[18] A: Based on what happened to Joe.
[19] Q: Yeah. So let me just understand
[20] this, if I'm clear. You reached out to
[21] Collier County for an application?
[22] A: Correct.
[23] Q: Before you ever actually applied,
[24] Nofi said to you what he believes Hesse did
[25] to him with regard to Collier County, and

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F. Fiorillo

[1] because of that, you didn't want to waste
[2] your time to seek it out — to seek a job
[3] there, because you were concerned that Hesse
[4] would do the same thing to you that he did
[5] to Nofi?
[6] A: Good possibility.
[7] Q: Okay.
[8] A: I mean, that was pretty
[9] reasonable on — I think. I don't know.
[10] Q: Sure.
[11] A: I think so.
[12] Q: Okay. Other than Collier County,
[13] did you contact any other law enforcement
[14] agency in 2007 for a job?
[15] A: No. Because at that point in
[16] time, it just became apparent that every
[17] police department that I would apply for
[18] would have to go through Ocean Beach, and
[19] ultimately, talk to Hesse.
[20] Q: Why not Paridiso?
[21] A: Because Paridiso wasn't the chief
[22] in Ocean Beach.
[23] Q: Yeah. But didn't you get a
[24] letter of recommendation from Paridiso?
[25]

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F. Fiorillo

[1] A: Did I get a letter of —
[2] Q: In 2006?
[3] A: I didn't get a letter of
[4] recommendation from Paridiso.
[5] Q: No? You never got a letter? You
[6] never put down in any application after you
[7] were fired that Chief Paridiso was a
[8] reference?
[9] A: I got a reference letter. I
[10] got —
[11] Q: Oh, so you have — you think
[12] there's a difference between a reference
[13] letter and a letter of recommendation?
[14] A: I'm trying to — I'm trying to
[15] think about that letter. I don't — I'm
[16] trying to remember that letter.
[17] Q: Let's —
[18] A: But —
[19] Q: Sir, let's get this clear. I've
[20] pre-marked this exhibit Fiorillo-8. Can you
[21] just do your magic.
[22] (Letter dated September 16, 2006
[23] from Edward T. Paridiso was marked as
[24] Fiorillo Exhibit-8 for identification;
[25]

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F. Fiorillo

[1] 2/20/09, E.L.)
[2] Q: This is a letter purportedly from
[3] Chief Paridiso to a "dear sir or madam"
[4] dated September 16, 2006, do you see that?
[5] A: Yes.
[6] Q: And it appears that it went from
[7] Mr. — it was delivered from Mr. Paridiso to
[8] you, do you see that?
[9] A: Okay. I remember this.
[10] Q: You recall getting this?
[11] A: Yes.
[12] Q: And this is a letter — September
[13] 16, 2006, right?
[14] A: Now I remember it.
[15] Q: Mr. Paridiso's identifying
[16] himself as chief of police, right?
[17] A: Yes.
[18] Q: To your knowledge, was he lying
[19] at the time when he identified himself as
[20] chief of police?
[21] A: Not to my knowledge.
[22] Q: And, in fact, Mr. Paridiso sent
[23] you this letter at your request, right?
[24] A: Yes.
[25]

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F. Fiorillo

[1] Q: And when did you request
[2] Mr. Paridiso send you a letter of
[3] recommendation?
[4] A: What I had to do in —
[5] Q: When, sir?
[6] A: When?
[7] Q: Yeah.
[8] A: Prior to September 16, 2006.
[9] Q: In relation to April 2, when?
[10] A: After April 2.
[11] Q: How far after April 2? Weeks?
[12] Months?
[13] A: Probably pretty close to
[14] September 16.
[15] Q: So — and you had asked
[16] Mr. Paridiso to send you this letter with
[17] the intent that once you received it, you
[18] would send it out to potential employers,
[19] correct?
[20] A: Incorrect. That's not true.
[21] Q: Oh really? Then what was the
[22] need for you to get this letter, if you
[23] weren't going to send it out to potential
[24] employers?
[25]

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F. Fiorillo

[1] A: I'm trying to think about this
[2] letter. Let me just — give me a little
[3] time.
[4] Q: Take as much time as you want,
[5] sir.
[6] A: This had to do with not a job
[7] application. What I had to do was I had to
[8] apply for an armed guard's license in
[9] Albany, and they didn't — they needed a
[10] letter from the chief of police to verify my
[11] employment. That's what this letter is
[12] about. I remember. I couldn't get an armed
[13] guard's license because I wasn't — I needed
[14] a reference — that's what I needed. I
[15] needed a reference letter from the chief of
[16] police.
[17] Q: And is it your opinion that you
[18] could not have sent this letter out to any
[19] future potential employers that you were
[20] seeking a job from?
[21] MR. GOODSTADT: Objection.
[22] A: Well, look — look —
[23] Q: Really? Look where? Tell me.
[24] And I'll read this letter into the record.
[25]

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[1] **F. Fiorillo**
 [2] "Plead accept this letter as verification of
 [3] past employment of Frank Fiorillo as a
 [4] seasonal/part time police officer with the
 [5] Ocean Beach Police Department. Mr. Fiorillo
 [6] entered the Suffolk County Police Academy in
 [7] October 2001 and graduated in May 2002. He
 [8] began regular patrol with the department on
 [9] May 28, 2002." And this is where it get —
 [10] it gets goods for you. "He performed all of
 [11] the typical duties and functions of a police
 [12] officer. Mr. Fiorillo always made himself
 [13] available for additional hours. Working
 [14] weekends or on holidays was never an issue.
 [15] His attendance and deportment were qualities
 [16] the department could always depend on.
 [17] Mr. Fiorillo's employment ended on April 2,
 [18] 2006 due to budget reductions. If you need
 [19] additional information, please call me at
 [20] 631-581-1816." What was bad about that?
 [21] **MR. GOODSTADT:** Objection.
 [22] **Q:** That's a glowing recommendation,
 [23] don't you think?
 [24] **MR. GOODSTADT:** Objection.
 [25] **Q:** Would you agree with me that

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[1] **F. Fiorillo**
 [2] that's a good recommendation, yes or no?
 [3] **A:** I would agree with you on that
 [4] part.
 [5] **Q:** And wouldn't you agree with me,
 [6] sir, that had you wanted to, this is
 [7] something that you could have sent to a
 [8] potential employer to say that "hey, look at
 [9] me, I'm a good cop and I have a chief of
 [10] police of a Suffolk County municipality
 [11] saying so"?
 [12] **MR. GOODSTADT:** Objection.
 [13] **A:** But based on what happened
 [14] with — with myself in Southampton Town and
 [15] Joe in Collier County and Kevin with Suffolk
 [16] County and Tommy and Eddie in the Town of
 [17] Islip, I felt that once — if they did get a
 [18] letter like this, okay, they still have to
 [19] go back to Ocean Beach and find out was it
 [20] really due to budget reductions. You know,
 [21] what was the problem. What — what was it.
 [22] **Q:** So what your testimony is, is
 [23] that you stopped looking for law enforcement
 [24] related jobs in 2007 because you believe
 [25] that Hesse said something bad about you to

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[1] **F. Fiorillo**
 [2] Southampton and the other Plaintiffs said to
 [3] you that they think that Hesse said
 [4] something bad about them?
 [5] **MR. GOODSTADT:** Objection.
 [6] **Q:** Is that a fair characterization
 [7] of why you stopped looking for a job in 2007
 [8] in the law enforcement field?
 [9] **A:** Well, I know for a fact that he
 [10] said something about me.
 [11] **Q:** How do you know?
 [12] **A:** Because Scott Foster called me.
 [13] **Q:** Right. All Foster told you is
 [14] that, according to your testimony, is that
 [15] you were involved in an incident, right?
 [16] **A:** Well, if Hesse told him about an
 [17] incident I was involved in, then why didn't
 [18] I get the interview for the position?
 [19] **Q:** But all you know is that Hesse
 [20] said that you were involved in an incident,
 [21] right?
 [22] **A:** Yes.
 [23] **Q:** You don't know anything else that
 [24] Hesse said, if he did say anything else?
 [25] **A:** I don't.

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[1] **F. Fiorillo**
 [2] **Q:** Right. And so is it fair — is
 [3] it a fair characterization of your testimony
 [4] that you stopped looking for jobs in the law
 [5] enforcement field in 2007 because of what
 [6] you think Hesse said about you to the Town
 [7] of Southampton and what the other Plaintiffs
 [8] said Hesse said about them?
 [9] **A:** Well, I got to tell you, I still
 [10] haven't really stopped. That's — that's my
 [11] answer.
 [12] **Q:** Oh, you really haven't stopped
 [13] yet?
 [14] **A:** No.
 [15] **Q:** Okay. Then tell me in 2007, who
 [16] did you apply — what entities did you
 [17] apply to for a law enforcement job?
 [18] **A:** Um, in 2007, I'd say it was only
 [19] Collier County. But what I'm —
 [20] **Q:** In 2008, what law enforcement
 [21] jobs did you apply for?
 [22] **A:** I didn't apply for any in 2008.
 [23] **Q:** Thank you.
 [24] **A:** Wait a second. Law enforcement?
 [25] **Q:** Law enforcement related jobs?

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[1] *F. Fiorillo*

[2] That's what I'm —

[3] A: Yes, I did. Park ranger.

[4] Q: For whom?

[5] A: For Brookhaven.

[6] Q: Okay. And that was in 2007 or

[7] 2008?

[8] A: 2008. Maybe it was —

[9] Q: Tell you what, I'll give you a

[10] hint, June 2, 2007.

[11] A: Okay.

[12] MR. NOVIKOFF: Let's mark — do

[13] your magic on what's been marked

[14] Fiorillo-35.

[15] (Application for Employment with

[16] Town of Brookhaven was marked as

[17] Fiorillo Exhibit-35 for identification;

[18] 2/20/09, E.L.)

[19] A: (Reviewing).

[20] Q: Do you recognize this document?

[21] A: Yes.

[22] Q: This is the application for the

[23] park ranger job, right?

[24] A: Correct.

[25] Q: You filled it out, right?

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[1] *F. Fiorillo*

[2] A: Correct.

[3] Q: You filled it out truthfully and

[4] accurately?

[5] A: Yes.

[6] Q: George Hesse's name anywhere on

[7] this application?

[8] A: No.

[9] Q: In fact, you put down as a

[10] reference, Edward Paridiso, correct?

[11] A: Correct.

[12] Q: That's on the first page?

[13] A: Correct.

[14] Q: Second page, in employment

[15] experience, you don't mention George Hesse

[16] there, do you?

[17] A: Because he wasn't my super —

[18] Chief Hesse was the chief.

[19] Q: That's right. You put down Chief

[20] Edward Paridiso as the supervisor, right?

[21] A: Correct.

[22] Q: And the reasons for leaving,

[23] "budgetary constraints," you see that?

[24] A: Correct.

[25] Q: So if I understand this document

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[1] *F. Fiorillo*

[2] and your testimony correctly, over a year

[3] after you were no longer working for Ocean

[4] Beach, you put down Mr. Paridiso as a

[5] reference, and you, in your own handwriting,

[6] wrote "budgetary constraints" as the reason

[7] for you leaving, right?

[8] A: Yes.

[9] Q: And, in fact, this was after you

[10] filed a lawsuit in this action, right?

[11] A: Yes.

[12] Q: This is after you made all the

[13] allegations that you made in the Complaint

[14] that it was everything but budgetary

[15] constraints, right?

[16] A: Well, I was only going by this

[17] letter.

[18] Q: By —

[19] A: This says — I took the language

[20] that Chief Paridiso used.

[21] Q: That's exactly right. Thank you.

[22] Did you have an interview with that — with

[23] Brookhaven for the park ranger position?

[24] A: No.

[25] Q: No? Why not?

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[1] *F. Fiorillo*

[2] A: I don't know why.

[3] Q: Did they ever call you back?

[4] A: No.

[5] Q: So you submitted an application

[6] and you never heard from them?

[7] A: Correct.

[8] Q: Did you ever tell Hesse you were

[9] applying for the Brookhaven job?

[10] A: No.

[11] Q: Did you tell Paridiso you were?

[12] A: No.

[13] Q: Do you have any knowledge one way

[14] or the other as to whether Hesse knew that

[15] you were applying for the Brookhaven job?

[16] A: No idea.

[17] Q: Do you have any knowledge one way

[18] or the other as to whether Hesse interfered

[19] with this job application?

[20] A: Not to my knowledge.

[21] Q: Okay. So we've now established

[22] that in 2007, you applied to one job in the

[23] law enforcement field. Any others that you

[24] can think of now?

[25] A: I don't recall.